

**House of Representatives
Health & Family Services Council
1999 Summary of Passed Legislation**



Committee on Children & Families

*Representative Sandra L. Murman
Representative Ken Sorensen*

Committee on Elder Affairs & Long Term Care

*Representative Nancy Argenziano
Representative Heather Fiorentino*

Committee on Health Care Licensing & Regulation

*Representative Mike Fasano
Representative Everett A. Kelly*

Committee on Health Care Services

*Representative Durell Peaden , Jr.
Representative Harry C. Goode, Jr.*

***Representative Durell Peaden, Jr., Council Chair
May, 1999***

Health & Family Services Council

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COMMITTEE ON CHILDREN & FAMILIES

1999 End-of-Session Summary

Bills that Passed Both Houses

HB 655--Goals for Dependent Children in Shelter and Foster Care by Gottlieb (Passed as section 5 of CS/CS/SB 660)

House Committee(s) of Reference: Children & Families; Family Law & Children; Judiciary; Health & Human Services Appropriations

House Bill 655 creates s. 39.4085, F.S., to establish legislative findings and intent for goals for dependent children in shelter and foster care. The bill specifies 23 goals for children in the custody of the Department of Children and Family Services who have been placed in shelter or foster care. The provisions of this section establish goals and not rights. The bill provides that these provisions shall not be interpreted as requiring the delivery of any particular service or level of service in excess of existing appropriations. In addition, no person shall have a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents, based upon the adoption of or failure to provide adequate funding for the achievement of the goals by the Legislature.

The effective date of the bill is upon becoming law.

HB 869 (PCB CF 99-01)--Child Care by Children & Families; Murman and Others

House Committee(s) of Reference: Education Innovation; Finance & Taxation; Health & Human Services Appropriations

Greater emphasis on school readiness has placed demands on child care programs. The trend is to reshape child care so that it is a quality readiness experience, thus making child care arrangements look like education programs. House Bill 869 addresses child care quality improvements by making the following changes in law:

- Provides an ad valorem tax exemption for a licensed child care facility operating in an enterprise zone.
- Exempts from sales tax purchases of educational materials and educational toys by child care facilities that qualify as Gold Seal Quality Care programs and provide health insurance.
- Provides legislative intent that licensed Gold Seal Quality child care facilities shall be considered educational institutions for the purposes of qualifying for exemption for ad valorem tax.
- Expands subsidized child care eligibility to 200 percent of poverty for children of working families enrolled in the Child Care Executive Partnership Program.
- Establishes an Early Head Start Collaboration Grants program to assist local

- agencies in securing Head Start programs.
- Creates a large family child care home classification and allows these homes to participate in the Gold Seal Quality Care program.
- Establishes requirements for the observational and developmental assessment of young children.
- Increases training requirements for child care personnel to 40 hours and adds additional child developmental and observational skill requirements.
- Requires a credential for child care directors by January 1, 2003.
- Allows for the establishment of specialized child care facilities for the care of mildly ill children.
- Allows licensed Gold Seal certified child care providers to be reimbursed at the market rate for child care services for children who are eligible to receive subsidized child care.
- Creates a statewide toll-free line to provide technical assistance to child care providers regarding health, developmental disabilities and special needs issues in children.
- Requires additional training for family day care home operators.
- Requires the Department of Insurance to conduct a study regarding how to make affordable health insurance available to the staff of child care providers.

The effective date of the bill is July 1, 1999.

HB 931--Swimming Pool/Residential Child Care by J. Miller and Others

House Committees of Reference: Children & Families; Community Affairs

This bill exempts swimming pools at certain residential child care facilities from regulation by the Department of Health and from the construction standards in ch. 514, Florida Statutes (F.S.), and ch. 64E-9, Florida Administrative Code (F.A.C.). The exemption is limited to agencies that are currently exempt from licensure pursuant to s. 409.176, F.S. provided that the pool is not open to the public. Local construction standards and state standards and inspection related to operations and maintenance would continue to be applied.

The effective date of the bill is upon becoming law.

CS/HB 1777--Mental Health Services by Reddick (Passed as sections 18 though 23 of HB 2003.)

House Committees of Reference: Children & Families; Elder Affairs & Long-Term Care; Health & Human Services Appropriations

Committee Substitute for House Bill 1777 includes the following provisions:

- Requires the Department of Children and Family Services to develop strategies for diverting persons with mental illness who are arrested for misdemeanors from the criminal justice system to the mental health system.
- Requires the Louis de la Parte Florida Mental Health Institute at the University of South Florida to review the diversion strategies and report to the Legislature.
- Requires the Department of Law Enforcement and the Department of Children and Family Services to evaluate the training provided to law enforcement officers in identifying mental illness and report to the Legislature.
- Requires the Department of Children and Family Services to contract with the Florida Mental Health Institute to study extending court jurisdiction of persons with mental illness who are arrested for or convicted of misdemeanors, and to prepare a report with recommendations.
- Requires the department to report on in-jail mental health diagnostic and treatment services.
- Requires that the Louis de la Parte Florida Mental Health Institute evaluate the mental health court in Broward County and report to the Legislature.
- Provides a \$100,000 appropriation.

The effective date of the bill is July 1, 1999.

**HB 2001 (PCB CF 99-05)--Reorganization of the Department of Children and Family Services
by Children & Families; Murman and Others (Passed as CS/SB
1902 by Children & Families; Clary)**

House Committee(s) of Reference: Governmental Operations; Health & Human Services Appropriations

Committee Substitute for Senate Bill 1902 (HB 2003) waives certain provisions under s. 20.19, F.S., 1998 Supp., until July 1, 2000, in order for the Secretary of the Department of Children and Family Services to organize programs, districts, and functions of the department to achieve a more effective and efficient service delivery system and to improve accountability. The provisions of s. 20.04, F.S., will not affect the implementation of this authority. The Secretary must submit a report by August 1, 1999, describing actions that have been taken and additional plans for operating the department's programs and services under those provisions in s. 20.19, F.S., 1998 Supp., that are waived by this bill.

The bill directs the Secretary of the Department of Children and Family Services to submit a comprehensive plan for department reorganization to the Governor and the Legislature by January 1, 2000.

HB 2003 (PCB CF 99-02)--Mental Health and Substance Abuse by Children & Families; Murman and Others

House Committee(s) of Reference: Governmental Operations; Health & Human Services Appropriations

House Bill 2003 substantially rewords Part X of Chapter 397, F.S., to create a comprehensive policy framework for Children's Substance Abuse Services. The bill requires the development and implementation of services, programs, and initiatives which relate specifically to substance abuse services for children. The purpose of this bill is to improve access to services at the local level relative to the targeted populations. Children with complex needs would be given increased attention through a strengthened case management capability at the local level. Demonstration models would be implemented for delivering substance abuse services to the targeted populations through local networks involving experienced and effective service providers. This would provide the impetus for the development and implementation of uniform procedures and standards for the various levels and types of available services. Contingent upon the availability of funds, a utilization management process would be implemented to assess the use and allocation of resources within networks while districts of the department would implement a formal quality assurance program to assess the quality of services provided to children generally.

House Bill 2003 creates a school substance abuse prevention partnership grant program to encourage the development of effective substance abuse prevention and early intervention strategies with school-age children. This is a departure from the way prevention and intervention initiatives have historically been approached because it involves a full partnership effort among the state agencies of the Department of Children & Family Services, the Department of Education, the Department of Juvenile Justice, and community-based organizations. Another innovation is the development and implementation of an Internet web site for school-age children and others which would provide immediate access, consistent with the Florida Cooperative Initiative, to information on numerous topics related to prevention specifically and substance abuse generally. This would include information on resources at the local level which are available to children and their families who are in need of services.

In addition, provisions in the bill direct that strategies and community alternatives be defined in each service district of the Department of Children and Family Services for diverting from the criminal justice system to the civil Baker Act system persons with mental illness who are arrested for a misdemeanor. Each district's strategies are to be developed through written cooperative agreements between the department, the judicial and criminal justice systems, and the local mental health providers. The Louis

de la Parte Florida Mental Health Institute is directed to review strategies in Florida and other states and to recommend to the Legislature those strategies that are most effective.

House Bill 2003 also creates the Commission on Mental Health and Substance Abuse and specifies the duties of the Commission and the membership that is appointed by the President of the Senate, Speaker of the House of Representatives, and the Governor. The Legislature intends for this Commission to conduct a systematic review of the overall management of the state's mental health and substance abuse system for updating chapter 394, part IV, F.S. An interim report to the Governor and the Legislature is due no later than March 1, 2000, and the final report with statutory modifications is due to the Governor and the Legislature no later than December 1, 2000.

The effective date of the bill is July 1, 1999.

**HB 2091(PCB CF 99-06)-- Child Welfare Privatization
by Children & Families; Murman and Others (Passed as CS/CS/SB
660 by Governmental Oversight and Productivity; Children and
Families; Brown-Waite & McKay)**

House Committee(s) of Reference: Judiciary; Governmental Operations; Community Affairs; Health & Human Services Appropriations.

House Bill 2091 makes changes to s. 409.1671, F.S., and other sections of law to address the continued expansion of the privatization of child welfare services. The bill makes the following changes:

- Provides more specific duties for the child welfare estimating conference.
- Specifies certain insurance requirements and liability limits for community-based agencies and their subcontractors.
- Gives hiring preference to employees of the department whose positions are being privatized for positions in community-based child welfare agencies.
- Allows substitute care providers (e.g., foster care) to also be licensed simultaneously as family day care homes and receive both child care and foster care monthly payments for eligible children in care.
- Requires the department to give federal earnings generated by a community-based agency back to the community-based agency for the purpose of providing additional child welfare services.
- Allows AHCA to establish a targeted case management program within the geographic area served by the community-based agency providing child welfare services.

The effective date of the bill is upon becoming law.

HB 2119 (PCB CF 99-03)--The WAGES Program by Children & Families; Murman (Passed as CS/CS/SB 256 by Fiscal Policy, Commerce & Economic Opportunities; Kirkpatrick)

House Committees of Reference: Business Development & International Trade,
Family Law & Children; Health & Human Services Appropriations

This bill continues the evolution of the Work and Gain Self-Sufficiency (WAGES) program by improving programs to support and providing opportunities to working recipients, improving provisions related to contracted services, strengthening governance, and increasing work participation. Major initiatives include:

- Removal of child-only and disabled cases from WAGES so that coalitions focus efforts on those with work requirements and time limits.
- Provision for an early exit incentive so that leavers have a cash reserve and to offset the disincentive for work that exists when working recipients use up lifetime benefits for small cash payments.
- Extension of benefits for applicants for Supplemental Security Income (SSI) programs.
- Rewarding work participation with more flexibility in receiving benefits. Let participants earn the use of additional months of benefits within a five-year period (without extending the lifetime limit).
- Allowing WAGES clients who are paid to be counted towards meeting staff-to-child ratio requirements for child care licensing, in order to expand job opportunities and provide equity.
- Expansion of educational services to improve job options, stability in the work force and, when needed, the ability to speak English.
- Expansion of opportunities for using Temporary Assistance to Needy Families (TANF) funds to support teen pregnancy and teen parent, domestic violence, substance abuse and mental illness programs.
- Removal of the Department of Labor and Employment Security from administrative responsibilities related to the WAGES Program.
- Allowing residential treatment for substance abuse or mental illness for WAGES participants, and waives work requirements for a limited period of time. Furthermore, creates a diversion program for families at risk of welfare dependency due to substance abuse and mental illness.
- Provision for development of procedures to assure that families losing eligibility for cash assistance receive transitional benefits to include contact by a case manager prior to the loss of benefits, and further provides for maximizing utilization of transitional Medicaid.
- Provision that certain time periods relating to the relocation assistance program will be determined by the department *by rule*.
- Allowing the department to adopt rules if federal regulations require a

- determination of needy families or needy parents to be based on financial criteria for families receiving services.
- Expanding transitional education and training to WAGES participants actively seeking employment. Expands transitional transportation to WAGES participants to sustain educational opportunities.

The effective date of the bill is upon becoming law.

COMMITTEE ON ELDER AFFAIRS & LONG TERM CARE

1999 End-of-Session Summary Bills that Passed Both Houses

CS/HB 213--Guardianship by Real Property and Probate; Crow and Others

House Committees of Reference: Elder Affairs & Long-Term Care; Real Property & Probate; Governmental Rules & Regulations; Health & Human Services Appropriations

This bill creates the Statewide Public Guardianship Office (Office) within the Department of Elder Affairs (DOEA). The responsibility for oversight of existing public guardianship offices will be removed from the courts and transferred to the Office. The Office may, after consultation with the chief judge of the circuit and others, create an "office of public guardian". If that Office is established, DOEA must provide a list of "best qualified" persons to serve in that capacity, and appoint one of those persons to serve as the circuit public guardian. The Office must oversee the public guardian offices, conduct a number of reviews, set up a training program, and seek innovative ways of meeting the state's guardianship needs. Each local public guardian will be required to prepare a budget, including information on all funds locally generated, and submit it to the Office. That budget information will be included in the Legislative budget request submitted by the Department of Elderly Affairs.

The Statewide Public Guardianship Office must report annually to the Governor, the Legislature and the Chief Justice of the Supreme Court about its progress in meeting its statutorily defined goals. The report must include a plan including alternatives to the current arrangements for meeting the state's guardianship needs. The Office is permitted to conduct or contract for demonstration projects.

The court may require an appointed general or special master to conduct random field audits, and extends from 15 to 30 days the time within which the court has to review the annual guardianship report. Additionally, the clerk of court is to receive the results of

the federal and state fingerprint background checks on affected guardians, and requires that the court consider the results of the required investigations in appointing a guardian.

The Executive Director of the Office is specifically authorized to contract with, not just appoint, a public guardian. Credit and criminal background checks on a spouse or an adult child who is appointed as a guardian are required. All persons who are considered for appointment as a public guardian must undergo background checks. Persons who are related to the ward, within certain specified relationships, are allowed to petition for removal of the guardian.

The effective date of the bill is October 1, 1999.

CS/HB 219 Public Records Exemption by Crow

House Committees of Reference: Elder Affairs & Long Term Care; Real Property and Probate; Governmental Operations

This bill requires agencies, and the court and its agencies, to provide the Statewide Public Guardianship Office with any medical, financial, or mental health records necessary for that office to perform certain specified duties. Any confidential or exempt information so received by that office must continue to be held confidential or exempt, as otherwise provided by law.

CS/HB 219 also creates a public records exemption “for all other records held by the Statewide Public Guardianship office relating to the medical, financial, or mental health of vulnerable citizens who are elderly persons or disabled adults ... persons with a developmental disability ... or persons with a mental illness”

The effective date of the bill is October 1, 1999.

CS/HB 645 Unlicensed Assisted Living Facility by Committee on Elder Affairs & Long Term Care; Prieguez and Others

House Committees of Reference: Elder Affairs & Long Term Care; Health Care Licensing & Regulation; Crime & Punishment; Health & Human Services Appropriations

This bill amends Section 400.408, Florida Statutes, relating to assisted living facilities (ALFs). The proposal clarifies the criminal and administrative sanctions against unlicensed assisted living facilities. Specifically, sanctions are imposed on persons who operate unlicensed facilities and those licensed ALFs affiliated with unlicensed facilities.

Currently, section 400.408(1)(b), F.S., provides that anyone who owns, operates, or maintains an unlicensed facility is committing a third degree felony. This bill provides that each day of unlicensed operation constitutes a separate offense and deletes the provision that operators who have applied for licensure within 10 days after agency notification may use this as an affirmative defense against criminal prosecution.

This bill similarly deletes provisions permitting unlicensed facilities to avoid administrative sanctions by applying for a license. Owners or administrators who have interest in more than one facility and fail to license any one of them may be subject to a fine imposed by the Agency for Health Care Administration. The grace period for imposing a \$500 per day fine is five days.

The bill adds adult family care homes to the list of facilities that require firesafety standards. The State Fire Marshal, Department of Health, and Agency for Health Care Administration will review and approve the minimum safety procedures for emergencies.

The effective date of the bill is October 1, 1999.

HB 771 Hospices/Elderly Affairs Department (Ch. 99-139, L.O.F.) by Bilirakis (Passed as SB 1514 by Klein)

House Committees of Reference: Elder Affairs & Long Term Care; Health Care Licensing & Regulation

This bill amends part VI, chapter 400, F.S., relating to hospice, to expand and specify the Department of Elder Affairs' (DOEA) rule-making authority. It clarifies that a hospice may contract for physician services, and that a hospice patient living in a residential environment subject to state regulation is considered to be a hospice patient. The hospice program is then responsible for the delivery of hospice care and services to such patient. There are currently 40 licensed hospices in Florida.

The effective date of the bill is July 1, 1999.

HB 1131 Memory Disorder Clinic by Detert (Passed as Section 1 of HB 1971 by Elder Affairs & Long Term Care and Argenziano)

House Committees of Reference: Elder Affairs & Long Term Care; Health Care Services; Health & Human Services Appropriations

This bill amends section 430.502, F. S. to designate a memory disorder clinic at

Sarasota Memorial Hospital in Sarasota County.

The effective date of the bill is July 1, 1999.

HB 1971 Nursing Home Facilities by the Committee on Elder Affairs & Long Term Care; Argenziano; and Others

House Committees of Reference: Elder Affairs & Long Term Care; Health & Human Services Appropriations.

Information to Assist Residents and Families: Ombudsman

The bill requires the Office of the State Long-Term Care Ombudsman to establish a statewide toll-free telephone number to enable nursing home residents, their families or friends, nursing home employees, or any member of the public to submit complaints concerning nursing home facilities.

Information to Assist Residents and Families: Consumer Satisfaction Surveys

The Agency for Health Care Administration (agency or AHCA), or its contractor, is required, in consultation with the nursing home industry and consumer representatives, to develop an easy-to-use consumer satisfaction survey for nursing home residents to express their reaction to the services and the care they receive in the facility in which they reside. Further all licensed nursing homes participate in assessing consumer satisfaction. The consumer information must be available electronically on the Internet and, slightly abbreviated, in print.

Each facility must display a poster with phone numbers for the several specified consumer protection Hotlines, as well as the licensure agencies.

Resident Care

AHCA must adopt rules that provide minimum staffing requirements and allow properly trained staff to assist residents with eating. Each facility must appoint a Florida-licensed physician as medical director. The bill authorizes the agency to adjust targets in the patient care component of the per diem rate to allow an additional \$31,681,376 appropriated in the bill to be used to reimburse nursing homes for hiring certified nursing assistants and licensed nurses: staff who provide direct care to residents.

Resident's Transfer & Discharge

It is grounds for disciplinary action against a nursing home administrator to discharge or transfer a resident for a reason other than a reason specifically authorized.

Regulatory Changes

The agency must implement an “early warning system” that uses available information to detect conditions that could be detrimental to the health, safety, and welfare of residents. The agency must employ nurses as quality-of-care monitors in each AHCA area.

Applicants for nursing home facility licensure must submit information about any civil verdict or judgment relating to medical negligence, violation of residents’ rights, or wrongful death involving the applicant that was rendered within the preceding ten years and copies of any new verdict or judgment involving the applicant relating to such matters within 30 days after filing with the clerk of the court and such information must be maintained in the facility’s licensure file and an AHCA database that is available to the public.

Facilities must increase staff, beyond the minimum required by law, when AHCA administratively sanctions the facility for care-related deficiencies. The facility is subject to a \$500 per day fine for each day staffing remains below the level required by AHCA.

Gold Seal Program & Panel for Excellence in Long Term Care

The “Gold Seal” Program for recognition of nursing home facilities demonstrating excellence in long-term care is established under the auspices of the Panel on Excellence in Long-Term Care in the Executive Office of the Governor. The nursing home rating system is repealed and the Nursing Home Advisory Committee is abolished.

Teaching Nursing Home

AHCA is authorized to implement a teaching nursing home pilot project providing for a comprehensive multidisciplinary program of geriatric education and research.

Pharmacy Benefits

The bill provides substantial cost savings for residents with pharmacy benefits under the Veteran’s Administration (VA), Champus, or some other pension plans, by requiring nursing facility pharmacists to repackage resident’s bulk prescriptions. Nursing homes and pharmacists who repackage these prescriptions are given reasonable liability protection.

Penalties for Serious Violations

The maximum amount of fines for serious violations is raised from \$10,000 to \$25,000.

Maximum fines for class two violations are raised from \$5,000 to \$10,000, and the maximum fine for a class three violation is raised from \$1,000 to \$2,500.

Studies

The bill creates a panel on Medicaid reimbursement to consider reimbursement of nursing home facilities and to recommend changes to accomplish certain specified objectives. The Department of Elderly Affairs is to study, or contract for a study, of the major factors affecting the recruitment, training, employment, and retention of qualified certified nursing assistants within the nursing home industry.

Other Provisions

Authorizes a memory disorder clinic at Sarasota Memorial Hospital in Sarasota County. The Department of Elderly Affairs and the Department of Children and Family Services are authorized to initiate demonstration projects of day treatment services to seniors and the developmentally disabled.

The effective date of the bill is July 1, 1999.

HB 2121 Public Records/Nursing Homes by Elder Affairs & Long Term Care, and Argenziano

House Committees of Reference: Elder Affairs & Long Term Care; Government Operations

HB 2121 provides that the information contained in any Agency for Health Care Administration (agency) record of a quality-of-care monitoring visit to a nursing home facility, except for specific exclusions pertaining to the reporting by a quality-of-care monitor of conditions which threaten the health or safety of a resident, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

House Bill 2121 also sets forth the public necessity for the exemption. Failure to protect the confidentiality of information gathered by the quality-of-care monitors would lead to a reluctance on the part of residents and staff of nursing facilities and others to provide accurate information which may serve as a basis for identifying and improving quality-of-care concerns before they develop into health or safety violations.

The effective date of the bill is October 1, 1999.

HB 2131 End-of-Life Care (Passed as CS/CS/SB 2228 by Klein) by Elder Affairs & Long Term Care; Argenziano & Others

House Committees of Reference: Elder Affairs & Long Term Care; Judiciary; and Health & Human Services Appropriations

This bill removes the statutory requirement that persons who have made an advance directive or designated a health care surrogate be terminally ill before life-prolonging procedures can be discontinued and brings the statute into congruence with Florida case law. Instead persons who are diagnosed as either “terminal” or in an “end-stage condition” or in a “persistent vegetative state” can have life-prolonging procedures withdrawn or withheld in compliance with their wishes. Civil liability protection is expanded to include hospital emergency personnel, nursing home staff, assisted living facility staff, home health agency personnel, hospice care teams, and adult family care home providers who honor Do-Not-Resuscitate Orders (DNRO).

The bill provides that for decedents who completed an organ donation card or otherwise expressed, in writing, their decision to make an anatomical gift, the surrogate, if one was designated and is reasonably available, may consent to the gift. If the decedent did not leave written evidence of intent of make an anatomical gift or if no surrogate was designated, or if the surrogate is not reasonably available, the law remains as it is now with the list of decision makers specified in ch. 732, F.S. The bill provides that an advance directive may include an anatomical gift.

House Bill 2131 expands provisions relating to transfer of a patient in instances of ethical conflict to apply to all treatment decisions, not just decisions to forego life-prolonging procedures. It adds a new provision to create a procedure for discontinuing life-prolonging procedures for persons in a persistent vegetative state who have no advance directive and no person to act as proxy.

It allows medical and health care professionals to substitute a class in end-of-life care for either the required class in domestic violence or HIV, if they completed both classes in the previous re-licensure or re-certification cycle.

The effective date of the bill is October 1, 1999.

COMMITTEE ON HEALTH CARE LICENSING & REGULATION

1999 End-of-Session Summary Bills that Passed Both Houses

CS/HB 35--Orthotics/Prosthetics/Pedorthics by Health Care Licensing & Regulation; Ball and Others (Passed

as SB 248 by Kurth)

House Committee(s) of Reference: Health Care Licensing & Regulation; Business Regulation & Consumer Affairs; Health and Human Services Appropriations

This bill provides an exemption from the Bachelor of Science degree and examination requirements (grandfather clause) for those who have practiced orthotics (five years) or prosthetics (five years) in this state and applied for licensure prior to March 1, 1998. The educational requirements for a pedorthist are a high school diploma or its equivalent and practice in this state for two years prior to March 1, 1998.

It provides an exception for applicants that did not meet the grandfather date contained in s. 468.805, Florida Statutes, as of March 1, 1998. It allows qualifying applications to be filed up to July 1, 1999. Depending upon when the bill becomes law, this would allow a period of approximately 60 days for anyone who failed to apply by March 1, 1998, to apply for licensure without meeting the educational and examination requirements. The Department of Health estimates that 20 applicants qualified, but missed the March 1, 1998 date.

The effective date of the bill is upon becoming law.

HB 91--Controlled Substances by Stafford; Pruitt and Others (Passed as CS/SB 152 by Criminal Justice; Brown-Waite and Others)

House Committee(s) of Reference: Health Care Licensing & Regulation; Crime & Punishment; Criminal Justice Appropriations

This bill amends ch. 893, Florida Statutes, by adding Gamma-hydroxy Butyric Acid (GHB) to Schedule II and Ketamine to Schedule III, thereby clarifying the penalties for unlawful possession and sale. GHB has strong sedative effects and has been a known drug of abuse. Ketamine is an anesthetic drug used primarily in veterinary medicine. It is known to be abused at teen "rave" parties.

This bill places in law the Attorney General's emergency rules that expire in June of 1999 which makes these two drugs unlawful. The emergency rules were adopted by the Attorney General because these two drugs presented an immediate danger to the public health, safety, and welfare.

Technical changes are made to correct cross references from the Department of Business and Professional Regulation to the Department of Health and to replace Dextropropoxyphene with Propoxyphene.

The effective date of the bill is July 1, 1999.

HB 245--Public Records Exemptions by Goode and Others (Passed as SB 674 by Brown-Waite)

House Committee(s) of Reference: Health Care Licensing & Regulation;
Governmental Rules & Regulation; Health & Human Services Appropriations

This bill exempts information concerning patients of home medical providers from the public records law and exempts information in connection with background screening of prospective employees from the public records law. Such information, when obtained by the home medical equipment supplier or by the Agency for Health Care Administration is exempt from public records released without the individual's consent. Provides for repeal on October 2, 2004, pursuant to the Open Government Sunset Review Act of 1995.

The bill expresses necessity of these exemptions on the basis of the potential shortage of applicants for employment with medical equipment suppliers if information of past misbehavior from juvenile records, criminal records, or central abuse registry are not kept confidential. This bill accompanies HB 247, which provides for licensure by the Agency for Health Care Administration of home medical equipment providers.

The effective date of the bill is July 1, 1999.

HB 247--Home Medical Equipment Providers by Goode and Others (Passed as CS/SB 276 by Health, Aging and Long-Term Care; Brown-Waite)

House Committee(s) of Reference: Health Care Licensing & Regulation; Health Care Services; Governmental Rules & Regulation; Health & Human Services Appropriations

The bill requires licensure and establishes reasonable standards that home medical equipment [HME] providers must meet in order to conduct business in Florida. It defines HME providers as those who provide durable medical equipment and services related to the use of this equipment in a patient's home. It creates a two year licensure period with exemptions for certain entities already subject to licensure under Florida law. The exemptions include nursing homes, home health agencies, intermediate care facilities, hospitals and ambulatory surgical centers, and certain other licensed health care providers.

The bill requires that HME personnel who instruct patients on the operation of equipment to be trained. HME providers are to inform patients of operating hours,

equipment warranties, and complaint procedures for after normal business hours. HME suppliers are required to provide equipment and services in accordance with a patient's plan of care or prescription, honor warranties, maintain equipment, and keep patient records.

The Agency for Health Care Administration (Agency) is designated as the regulatory entity, and the bill creates authority to charge fees, conduct applicant criminal history and abuse registry background checks, perform on-site inspections, and assess administrative penalties.

This bill has an estimated fiscal impact of \$613,721 and 13 FTE's on state government, no fiscal impact on local government and an indeterminate impact on the private sector. There is an appropriation of \$701,370 from the Health Care Trust Fund and 13 positions to implement the provisions of this bill.

The effective date of the bill is July 1, 1999.

**CS/HB 319--Pharmacy Practice
by Health Care Licensing & Regulation; Gay (Passed as sections
118, 119 and 172 of HB 2125 by Health Care Services; Peaden &
Others)**

House Committee(s) of Reference: Health Care Licensing & Regulation; Health Care Services; Insurance; Health & Human Services Appropriations

CS/HB 319 makes a number of changes to ch. 465, F.S., relating to the practice of pharmacy. It amends the statutory definition of the "practice of the profession of pharmacy" to include "other pharmaceutical services" which means evaluation and monitoring of a patient's health as it relates to drug therapy and assisting in the management of such drug therapy.

Correctional facilities are added to the institutional practice sites where return of unit-dose medications for reuse is permitted. Increases the maximum administrative fine from \$1,000 to \$5,000 per offense.

Section 499.012, F.S., is amended to provide for certain governmental transfers of drugs between identified entities, and a significant renumbering of the section is provided.

The effective date of these provisions is July 1, 1999.

HB 431--Medical Devices/Registration by Lynn and Others (Passed as SB 1396 by Burt)

House Committee(s) of Reference: Health Care Licensing & Regulation; Business Regulation & Consumer Affairs; Health & Human Services Appropriations

This bill provides for the exemption of certain Class I, II, and III medical devices that are currently required to be registered and a fee paid to the Department of Health.

Currently, medical device manufacturers must register medical devices manufactured in Florida with the Department of Health. This includes Class I, Class II, and Class III medical devices. The two-year registration fee is \$20 per separate and distinct product. Variations in physical characteristics such as size, package, shape, or color and the same medical device marketed under different brand names are considered identical products and do not require payment of the registration fee.

Manufacturers of Class I devices are exempted from paying the fees, but are required to register. Manufacturers of Class II and Class III devices are exempted from registering and paying the fees. Most of the administrative aspects of registration for Class II and Class III devices will remain in effect since a device manufacturer must submit documentation (pre-market notification letter or pre-market approval number) for these medical devices manufactured in Florida. Also, by exempting registration of these two classes of devices, the manufacturer will not be eligible to receive a Certificate of Free Sale from the department. However, a similar certificate is available from the federal government, which serves the same purpose as the Florida Certificate of Free Sale.

The department estimates that approximately 2,750 separate and distinct medical devices are registered with the department annually. Thus, on an annual basis, the Drug, Devices and Cosmetics Trust Fund will not collect annual fees of an estimated \$27,500.

The effective date of the bill is July 1, 1999.

HB 489--Body-Piercing Salons by Valdes and Others

House Committee(s) of Reference: Health Care Licensing & Regulation; Business Regulation & Consumer Affairs; Governmental Rules & Regulations; Health & Human Services Appropriations

This bill requires the Department of Health to license body-piercing salons and to adopt

rules to regulate such facilities. Exemptions are provided for health care professionals regulated by the department as long as the person does not hold himself out as a body-piercing establishment. Specific licensure requirements are provided for body-piercing salons, and the department is required to conduct an annual inspection of salons.

The bill prohibits the body-piercing of a minor without the notarized consent of a parent or legal guardian, and the body-piercing of a minor under the age of sixteen (16) is prohibited unless the minor is accompanied by a parent or legal guardian.

The department estimates the licensure of 205 permanent salons the first year. Such salons are subject to an annual licensure fee of \$150. Also, the department estimates the licensure of 55 temporary salons at an annual license fee of \$75. Monies collected shall be received by the department and payable to the county health department in the county where the establishment is located.

The bill provides for prohibited acts and penalties, authorizes the imposition of fines, and authorizes departmental enforcement. Administrative fines are deposited into the County Health Department Trust Fund for use in providing services as specified in the bill.

The effective date of the bill is October 1, 1999.

HB 699--Athletic Trainers (PCB HCL 99-02) by Health Care Licensing & Regulation; Fasano

House Committee(s) of Reference: Business Regulation & Consumer Affairs; Health & Human Services Appropriations

This bill replaces the Department of Health's 7-member Council of Athletic Training with a 9-member Board of Athletic Training, appointed by the Governor and confirmed by the Senate. The membership of the board includes: five (5) athletic trainers; one (1) medical or osteopathic physician; one (1) chiropractic physician; and two (2) consumer members.

The bill effectively transfers to the board a number of powers and duties presently performed by the Department of Health, including matters relating to examinations and continuing education, as well as rulemaking, licensure fee, and disciplinary authority.

Regulation of athletic trainers was established in 1994 under the jurisdiction of the Department of Business and Professional Regulation, and was transferred to the Department of Health in 1997. Since implementation, there has been no discipline taken by the Department of Health. The department implemented continuing education requirements effective July 1998, requiring 24 hours per biennium.

By the end of this fiscal year (June 1999), it is estimated that over 1,000 athletic trainers will be licensed (986 were licensed as of January 1999).

The Department of Health reports that to add two (2) additional board members would create an increase in expenses of \$7,732 the first year, and \$6,560 the second year.

The effective date of the bill is October 1, 1999.

HB 735--Health Facilities Authorities Law by Farkas and Others

House Committee(s) of Reference: Health Care Licensing & Regulation; Finance & Taxation

This bill revises the provisions related to the power of a health facility authority created under ch.154, Part III, Florida Statutes, to acquire accounts receivable from other health care facilities.

It provides that such accounts receivable program may include the financing of accounts receivable acquired by a health facility from other not-for-profit health care corporations whether or not controlled by or affiliated with such health care facility and whether or not located within or without the geographical limits of the state.

According to the Agency for Health Care Administration, this bill will not have a fiscal impact on the state, local government or the private sector in general.

The effective date of the bill is upon becoming law.

HB 917--Treatment of Life-threatening Wounds by Cantens and Others (Passed as SB 1182 by Silver)

House Committee(s) of Reference: Health Care Licensing & Regulation; Crime & Punishment; Health Care Services

Currently, s. 790.24, F.S., requires health care providers to report to the sheriff's department any gunshot wound or any wound indicating violence that they treat, regardless of the severity of the wound. House Bill 917 requires physicians, nurses, or their employees, and any employee of a hospital, sanitarium, clinic, or nursing home to report to the sheriff's department only gunshot wounds and other life-threatening injuries indicating an act of violence.

The bill provides that a health care practitioner commits a first degree misdemeanor for

failing to report a gunshot wound or a life-threatening injury indicating an act of violence. Thus, a health care practitioner would not commit a crime for failing to report an injury indicating violence (other than a gunshot wound) if the injury was not life-threatening.

The Domestic Violence Task Force on Fatality Prevention within the Department of Community Affairs reports:

A strict interpretation of the statute requires all wounds indicating violence to be reported creating a situation that may be more detrimental to a domestic violence victim who could be endangered if law enforcement receives a report. Also the victim may forego necessary medical treatment in order to avoid being reported. This bill will allow health care practitioners to report only those wounds that result from a gunshot or knife or other life-threatening injury indicating violence.

An amendment was adopted which provides that s. 790.24, F.S., does not affect any requirement a person has to report abuse pursuant to ch. 39, F.S., concerning proceedings relating to children, or ch. 415, F.S., regarding protection from abuse, neglect, and exploitation.

The effective date of the bill is July 1, 1999.

HB 923--Home Health Agencies/Nurse Registry by Prieguez (Passed as Sections 1 and 10 of CS/SB 2360 by Health, Aging, and Long-Term Care; Thomas)

House Committee(s) of Reference: Health Care Licensing & Regulation; Insurance; Health & Human Services Appropriations

This bill adds the definition of "home health aide" to the Home Health Services Act in s. 400.462, F.S. A very similar definition is contained in Section 1 of CS/SB 2360.

In addition, the bill authorizes nurse registries to refer home health aides for contract services as independent contractors. Also requires a registered nurse to make monthly visits in a patient's home when the patient is receiving home health aide care.

Further, the bill deletes the dual registry requirement in nurse registries. At present, certified nursing assistants or persons providing sitter, companion, or homemaker services must be registered with the Agency for Health Care Administration as well as within the nurse registry.

The effective date of CS/SB 2360 is October 1, 1999.

CS/HB 965--Telehealth Task Force

by Health Care Licensing & Regulation; Boyd (Passed as Section 175 of HB 2125 by Health Care Services; Peaden and Others)

House Committee(s) of Reference: Health Care Licensing & Regulation; Business Regulation & Consumer Affairs

This bill establishes a Task Force on Telehealth. The Secretary of Health is directed to appoint the members of the task force and representation will include persons in the various medical and allied health professions, as well as other affected health care industries.

The task force will review and research various health care telecommunications and electronic communications providing health care information. In addition, the task force will identify laws, regulations, and reimbursement practices relating to telehealth practice. The bill directs the Task Force to submit a report of findings and recommendations to the Legislature and Governor by January 1, 2000.

The effective date of HB 2125 is July 1, 1999.

HB 971--Citrus County/Hospitals & Nursing Homes by Argenziano

House Committee(s) of Reference: Health Care Licensing & Regulation; Community Affairs

This bill codifies all prior special acts relating to the Citrus County Hospital Board in Citrus County into a single act.

The bill removes references to freeholders and inserts voters.

The effective date of the bill is upon becoming a law.

HB 981--Dentistry by Morroni

House Committee(s) of Reference: Health Care Licensing & Regulation

House Bill 981 requires dental appointees to the Board of Dentistry to have been

actively engaged in the clinical practice of dentistry for at least five years immediately preceding the appointment, to be a dentist whose primary source of income is derived from direct patient care, and to remain primarily in clinical practice for the duration of the appointment. This requirement only applies to appointments made on or after July 1, 1999. Authorizes appointment of persons to the Board of Dentistry who are connected with a dental college or community college if no more than five percent of that person's income is derived from that relationship with such college.

Requires work orders of unlicensed persons and registered dental laboratories providing services to licensed dentists or other registered dental laboratories to be in a form prescribed by rule of the board rather than the Department of Health. Eliminates requirements that such forms be supplied by the department and assigned to individual dentists.

The advertising section is expanded to include advertising of specialties approved by the Board of Dentistry or the American Dental Association. Prohibits a dentist from disclosing that his or her practice is limited to a specialty unless the dentist has attained membership in or credentialed by an accrediting organization. Requires notice to consumers of specialty areas and organizations. Dentists who wish to advertise their accrediting organization and have met the prescribed criteria, may do so if the dentist incorporates in capital letters or some other manner clearly distinguishable from the rest of the announcement, solicitation, or advertisement a clarifying statement.

The effective date of the bill is July 1, 1999.

HB 989--Physician Assistants/Licensure by C. Green

House Committee(s) of Reference: Health Care Licensing & Regulation

This bill allows any student, who completed all coursework requirements of the physician assistant program offered through the Florida College of Physician's Assistants prior to its closure in August of 1996, to sit for the special physician assistant exam developed by the department.

Prior to taking the exam, such applicant must successfully complete any clinical rotations that were not completed prior to termination of the program and any additional clinical rotations, not to exceed six months, as determined necessary by the Council of Physician Assistants.

The Boards of Medicine and Osteopathic Medicine will determine, based on recommendations from the Physicians Assistant Council, the facilities where such clinical rotations may be completed, and what constitutes successful completion. Such

requirements shall be comparable to those established by accredited physician assistant programs. This special provision for taking the exam is repealed July 1, 2001.

According to the Department of Health, this bill will have no fiscal impact on the state, local government, or the private sector in general. There will be a cost of \$550 per student for each exam taken. The maximum number of students eligible for this provision is estimated at 40.

The effective date of the bill is July 1, 1999.

HB 1031--Physician Assistants by Goode

House Committee(s) of Reference: Health Care Licensing & Regulation; Health Care Services

HB 1031 includes physician assistants in s. 39.304, F.S., as health care practitioners who are allowed to perform and authorize medical and radiological examinations on children who are suspected to be victims of abuse, abandonment or neglect, along with physicians and advanced registered nurse practitioners.

It modifies provisions relating to the existing formulary committee and requires the committee to meet at least twice a year and establishes four-year committee membership terms. Also, it requires the Boards of Medicine and Osteopathic Medicine to adopt the revised formulary and any future changes at their next regular meeting following receipt of the formulary from the committee.

The effective date of the bill is July 1, 1999.

CS/HB 1073--Recreational Sport Diving by Health Care Licensing & Regulation; Edwards (Passed as Section 199 of HB 2125 by Health Care Services; Peaden and Others)

House Committee(s) of Reference: Health Care Licensing & Regulation; Water & Resource Management; Governmental Rules & Regulations; Health & Human Services Appropriations

The strike everything amendment adopted in the Water & Resource Management Committee was the language amended onto HB 2125. The section establishes allowable maximum levels of contamination in compressed air used for recreational sport diving based on levels of contaminants allowed by the Grade "E" Recreational Diving Standards of the Compressed Gas Association. The bill requires the quarterly

testing of compressed air by a laboratory accredited by the American Industrial Hygiene Association or the American Association for Laboratory Accreditation with results submitted to the Department of Health. A certificate is required to be conspicuously posted certifying that the compressed air meets the standards for contaminant levels established by the department. Establishes misdemeanor penalties for failure to comply with the provisions of the bill.

The effective date of this section is January 1, 2000.

HB 1081--Public Records/Health Care Employees by Representative Goodlette

House Committee(s) of Reference: Health Care Licensing & Regulation;
Governmental Operations

This bill creates a public records exemption relating to the confidentiality of certain personal identifying information regarding employees of certain health care facilities (hospitals and ambulatory surgical centers). The home addresses, telephone numbers, social security numbers, and photographs of active and former employees are exempt from the public records law.

Also, the home addresses, telephone numbers, social security numbers, photographs, places of employment of spouses and children, and the names and location of schools and day care facilities attended by the children of such employees are exempt from the public records law.

The bill includes the statement of public necessity as required by s. 24(a), Art. I of the Florida Constitution. The justification for the exemption is the fact that the Legislature finds that these exemptions are a public necessity, and that it would be an invasion of a person's privacy for such personal, sensitive information contained in these facilities to be publicly available. Employees of these facilities have been threatened and instances have occurred in which patients have inflicted injuries upon health care providers which have resulted in the death of the provider.

These exemptions are subject to the Open Government Sunset Review Act of 1995 and shall stand repealed on October 2, 2004.

The effective date of the bill is July 1, 1999.

HB 1095--Broward County/Broward Hospital District by Wasserman-Schultz (Passed as SB 2612 by Campbell)

House Committee(s) of Reference: Health Care Licensing & Regulation; Community

Affairs; Governmental Operations; Finance & Taxation

This bill amends ch. 24415, Laws of Florida, 1947, to provide that the South Broward Hospital District is not to be considered a “public body” or “taxing authority” as those terms are used in part III of ch. 163, Florida Statutes. A “public body” or “taxing authority,” pursuant to s. 163.340(2), Florida Statutes, “means the state or any county, municipality, authority, special taxing district..., or other public body of the state, except a school district.”

It further provides that this provision shall apply to community redevelopment agencies established after January 1, 1998, but shall not apply to any community redevelopment agencies established prior to January 1, 1998.

This act shall take effect upon becoming a law, and shall apply retroactively to December 31, 1998.

**CS/HB 1431--Emergency Medical Services
by Health Care Licensing & Regulation; Casey and Others (Passed
as Sections 29-34 of HB 2125 by Health Care Services; Peaden and
Others)**

House Committee(s) of Reference: Health Care Licensing & Regulation;
Governmental Rules & Regulations; Health & Human Services Appropriations

The committee substitute was added onto HB 2125 to provide statutory authority for current rules that relate to the regulation of emergency medical technician and paramedic education programs, staffing of advanced life support transport vehicles, and the provision of a patient’s prehospital medical record to the hospital that receives the patient.

The sections provide authority to the Department of Health requiring the department to process applications, approve or deny programs, and perform site visits. The requirements are to be established to ensure ongoing consistency and continuity in the education programs for emergency medical technicians and paramedics.

Authority is established in the Department of Health for recertification training for emergency medical technicians and paramedics. Recertification training must cover training for adult and pediatric clinical care. The approval process includes sufficient latitude for medical directors of emergency medical service licensees to prescribe training to meet local needs.

Provides rule authority to the Department of Health relating to a licensee’s security and storage of controlled substances, medications, and fluids, consistent with chapter 499,

F.S. The section also provides rule authority to require application for licensure or renewal of a license to be made under oath.

The effective date of these sections is July 1, 1999.

**CS/HB 1467--Health Care Practitioners/Regulation
(PCB HCL 99-03)**

**by Business Regulation & Consumer Affairs; Health Care
Licensing & Regulation; Fasano and others** (Passed in various
sections of HB 2125 by Health Care Services, Peaden and Others)

House Committee(s) of Reference: Business Regulation & Consumer Affairs; Health
& Human Services Appropriations

This bill relates to the various health care practitioners of the Department of Health. It makes a number of changes to ch. 455, the administrative chapter for all medical “health care practitioners”, and to the various practice acts of the approximately 37 professions regulated by the department.

The more substantive changes expand the opportunity for the regulatory boards to discipline practitioners for certain violations such as: sexual misconduct; failing to comply with the requirements of profiling and credentialing; emergency suspension of their license for testing positive for drugs without a legitimate medical reason; failing to inform patients about their rights; and increases fine caps for disciplinary actions in several professions.

House Bill 2125 includes a number of additional changes. A few of the major differences/additions are: the Council on Respiratory Care is converted to a Board; a task force on Telehealth is included; a study of clinical laboratory services for kidney dialysis is added; the definitions of the practice of medicine, osteopathic medicine, and dentistry are deleted; the CE provisions and nurse title protection of CS/HB 965 and CS/HB 1527 are included; the adverse incident/office surgery standards are included; treble damages for willfully disclosing confidential information is added; language providing that there is no presumption that a blood-borne infection is a job-related injury is added; a provision that DOH may not include final disciplinary action taken by a licensed hospital or ambulatory surgery center in a practitioners profile is included; and an extension of the authority for the department to give examinations to certain foreign-licensed doctors is added.

The effective date of the bill is July 1, 1999, unless otherwise provided.

**CS/HB 1527--Health Department/Professions/Licensing
by Health Care Licensing & Regulation; Boyd (Passed as sections
60, 74, 76, 84, and 183 of HB 2125 by Health Care Services; Peaden
and Others)**

House Committee(s) of Reference: Health Care Licensing & Regulation;
Governmental Rules & Regulation; Health & Human Services Appropriations

This bill authorizes the Department of Health, if there is no regulatory board, to adopt rules to establish the criteria for continuing education courses required for renewal of a license. In addition, the bill provides that a licensee failing to satisfy continuing education requirements shall be subject to a citation and assessment of a fine and may be required to take additional hours of continuing education.

This bill also provides that it is a first degree misdemeanor if an individual uses the title of “nurse”, unless they are licensed or certified to perform nursing services.

Additionally, the bill provides that the definition of “health care practitioner” includes persons who are applying for a health care license or registering as a physician intern, resident, or fellow and exempts persons who are registered or applying for registration from the profiling and credentialing requirements needed for physician licensure.

The effective date of HB 2125 is July 1, 1999.

**HB 1687--Indian River County Hospital District
by Sembler**

House Committee(s) of Reference: Health Care Licensing & Regulation; Community
Affairs

This bill amends ch. 61-2275, Laws of Florida, to require a binding voter referendum prior to the sale of all or substantially all of the facilities which make up the Indian River Memorial Hospital. The referendum shall be held in accordance with: the bond referendum procedure set forth in s. 100.201, Florida Statutes; the procedure for a mail ballot set forth in s. 101.6101, Florida Statutes; or any other comparable procedure set forth in then existing Florida law. The specific procedure to be utilized shall be determined by the district in the resolution calling for such referendum.

The effective date of the bill is upon becoming law.

HB 1703--Medical Practice/Telemedicine

by Kyle (Passed as section 175 of HB 2125 by Health Care Services; Peaden and Others)

House Committee(s) of Reference: Health Care Licensing & Regulation; Health & Human Services Appropriations

This bill establishes a Task Force on Telemedicine to research and make recommendations regarding the delivery of health care services across state lines. The task force members will be appointed by the Secretary of Health and a report with the task force findings is due to the Legislature and Governor by January 1, 2000.

The effective date of HB 2125 is July 1, 1999.

CS/HB 1795--Assisted Living Facility/Temperature

by Elder Affairs & Long-Term Care; Sobel and Others (Passed as sections 14 & 15 of CS/HB 2360 by Health, Aging & Long-Term Care; Thomas)

House Committee(s) of Reference: Health Care Licensing & Regulation; Elder Affairs
& Long-Term Care; Health & Human Services Appropriations

The committee substitute was amended onto CS/SB 2360 to require the Agency for Health Care Administration, in consultation with the Department of Children and Family Services and the Department of Elder Affairs, to adopt and enforce rules related to the cooling of nursing home facilities.

Further, it requires the Department of Elder Affairs, in consultation with the Agency for Health Care Administration, the Department of Children and Family Services, and the Department of Health, to adopt rules, policies, and procedures related to the cooling of assisted living facilities.

The effective date of these sections is October 1, 1999.

**HB 1847--Health Care Practitioners/Regulation (PCB HCL 99-07)
by Health Care Licensing & Regulation; Fasano and Others**
(Passed as sections 92, 101, 197 and 198 of HB 2125 by Health Care Services; Peaden and Others)

House Committee(s) of Reference: Judiciary; Governmental Operations

This bill provides that effective January 1, 2000, medical and osteopathic physicians must file reports on adverse incidents that occur as a result of office surgery in their offices. The reports must be filed within 15 days after the occurrence of the adverse incident. These reports are filed with the Department of Health and will be used to determine if disciplinary action is required against a practitioner. Originally, these reports were to be confidential, but the public records bill (HB 1843) exempting these documents died in the Senate, and similar legislation was not passed.

In addition, the bill grants the department authority to develop rules relating to standards of practice for office surgery and provide for registration and inspection of offices where levels two and three office surgery are performed. The department will inspect the offices annually unless the office is accredited by a national recognized accrediting agency or an accrediting organization approved by the appropriate board.

This will enable the department to determine compliance with minimum safety standards in office surgery, instead of being dependent upon patient complaints for information about unsafe surgical offices. This will enable the department to respond immediately to adverse incidents.

The effective date of sections 92, 101, 197 and 198 is July 1, 1999.

**HB 1881--Health Care Practitioner/Credentials (PCB HCL 99-05)
by Health Care Licensing & Regulation; Fasano and Others**
(Passed as section 75 of HB 2125 by Health Care Services; Peaden and Others)

House Committee(s) of Reference: Governmental Rules & Regulation

This bill makes a number of changes to the standardized credentialing process passed in 1998 for physicians. It applies to medical, osteopathic, chiropractic, and podiatric physicians. There are approximately 50,000 physicians licensed in these four professions. The majority, approximately 40,000, are licensed medical physicians.

There are five major changes to the current law:

- The Department of Health will now only serve as a depository for core credentials data and any updates. It will be available electronically to any health care entity that is authorized to access the data by the physician.
- The definition of “core data” has been changed to accommodate the needs of the health care entities. Also, a CVE is changed to a credentials verification organization (CVO), which is the more common name used in the industry.
- All physicians will provide their “core credentials data” and updates to the department instead of a designated CVO. However, a physician may still designate a CVO. Also, a designated CVO is prohibited from releasing any information without prior approval of the physician.
- The time period for reporting certain incidents is changed from within 30 days to within 45 days to coincide with the requirements of profile reporting. Rather than file two reports, a credentials report will also comply with the requirement to file a profile report.
- Effective July 1, 2002, no Florida agency may collect or attempt to collect duplicate core credentials data from any physician if the information is available from the department.

Section 75 of HB 2125 takes effect July 1, 1999.

HB 1983--Home Health Agencies (PCB HCL 99-08)
by Health Care Licensing & Regulation; Fasano and Others
(Passed as CS/SB 2360 by Health, Aging and Long-Term Care;
Thomas)

House Committee(s) of Reference: Governmental Rules & Regulations; Health & Human Services Appropriations

This bill substantially revises Chapter 400, Part IV of the Home Health Services Act. Specifically, an organization is any entity involving more than one health care professional discipline or a health care professional and a home health aide or certified nursing assistant. The changes addressed in this legislation allows the Agency for Health Care Administration to enforce home health care regulation on all home health care agencies and nurse registries that are not exempt in the statute.

The regulation applies to home health care practitioners; however, there are several relevant exemptions, including certain professionals and entities. The major substantive issues addressed in this bill include:

- Revisions and additions to the definitions regarding home health services and home health agencies.
- Establishes the licensure requirements for home health agencies and clarifies the therapeutic services provided in the home.
- Provides insurance coverage requirements
- Provides grounds for disciplinary action penalties for operating without a license.
- Establishes administrative fines for various classes of deficiencies.
- Provides for the establishment and review of the patient assessment, treatment orders, and plan of care.
- Provides for the maintenance of the service provision plan.
- Specifies that the home health agency rendering care and treatment for a patient is fully responsible for the care provided.
- Provides that home health personnel can aide in the self administration of medications, under specific conditions.
- Establishes that the Agency for Health Care Administration has the appropriate rulemaking authority to adopt, publish, and enforce minimum standards relating to home health agencies and nurse registries.
- ▶ Provides for the licensure of nurse registries.
- ▶ Provides that particular service providers must be registered in a nurse registry.
- ▶ Provides screening of home health agency personnel.
- ▶ Establishes the Task Force on Home Health Licensure Provisions.
- ▶ Requires that the rules adopted by the Agency for Health Care Administration and the Department of Elderly Affairs include provisions governing the cooling of facilities.
- ▶ Revises requirements with respect to the eligibility of certain foreign-licensed physicians to take and pass standardized examinations.
- ▶ Prescribes fees for foreign-licensed physicians taking examinations.

The effective date of the bill is October 1, 1999.

HB 1993--Onsite Sewage & Disposal Systems by Alexander and Others

House Committee(s) of Reference: Health Care Licensing & Regulation; Governmental Rules & Regulations; Water & Resource Management; Health & Human Services Appropriations

The bill defines criteria for the establishment of a “mean annual floodwater line” that would be used as the boundary line for the 75 foot setback from the system to surface waters. Additional language provides a definition of a “permanent non-tidal surface water body.” These changes would not explicitly result in a significant change to the setback currently established by county health department staff.

The bill sets aside five dollars from each repair permit to be used for funding a training center for program staff and licensed septic tank contractors with the intent of earmarking funds for the training center without raising existing permit fees. The department reports an average of 20,000 repair permits each year which then generate approximately \$100,000 annually for the training center.

Requires the department to conduct a scientific research project on the issue of seasonally inundated area setbacks and to report its findings to the Legislature by February 1, 2000. Provides that the department may contract with an outside consultant for the study.

Requires the Department of Health and the Department of Environmental Protection to report to the Governor and the Legislature on the current state of sewage treatment technology no later than January 1, 2003. No later than January 1, 2003, Monroe County and the Florida Keys Aqueduct Authority shall report to the Governor and the Legislature on the implementation of charges, fees, and assessments related to sewage collection, treatment, and disposal in Monroe County, and on implementation of the Monroe County Wastewater Master Plan.

The effective date of the bill is upon becoming law.

HB 2031--Certified Nursing Assistants by Sobel (Passed as sections 204-206 of HB 2125 by Health Care Services; Peaden and Others)

House Committee(s) of Reference: Health Care Licensing & Regulation; Governmental Rules & Regulations; Judiciary; Health & Human Services

Appropriations

The substance of this bill was amended onto HB 2125 to require the Department of Health to regulate the practice of certified nursing assistants in Florida. The amendment provides requirements for certification and authorizes the department to deny, suspend, or revoke certification of certified nursing assistants and to impose administrative penalties for the commission of prohibited acts specified in the bill.

Additionally, the bill authorizes the department to issue a letter of exemption from disqualification of certification; requires the department to maintain a registry of certified nursing assistants; provides for a first-degree misdemeanor penalty for a certified nursing assistant or applicant for certification who makes any false statement or fails to disclose information with respect to any voluntary or paid employment or licensure as a certified nursing assistant; and gives the Department of Health access to the background screening registry for nursing home employees maintained by the Agency for Health Care Administration and the child abuse screening system maintained by the Department of Children and Families.

Furthermore, each employer of a certified nursing assistant is required to submit to the Department of Health a list of names and social security numbers of each person employed by the employer as a certified nursing assistant in a nursing-related occupation for a minimum of 8 hours for monetary compensation during the preceding 24 months; and exempts an employer who terminates or denies employment to a certified nursing assistant whose certification is inactive as shown on the certified nursing assistant registry or whose name appears on the central abuse registry and tracking system of the Department of Children and Family Services or on a criminal screening report from the Florida Department of Law Enforcement from civil liability for the termination or denial. Provides that any complaint or record maintained by the Department of Health pursuant to the discipline of a certified nursing assistant and any proceeding held by the department to discipline a certified nursing assistant shall remain open and available to the public.

The effective date of these sections is October 1, 1999.

COMMITTEE ON HEALTH CARE SERVICES

1999 End-of-Session Summary

Bills that Passed Both Houses

CS/HB 337--HMO Contracts
by Health Care Services; Goode and Others (Passed as CS/SB 232
by Banking and Insurance Committee; Latvala and Others)

House Committee(s) of Reference: Health Care Services; Health & Human Services Appropriations

This bill is commonly referred to as the HMO “due process” bill. The bill adds as a prohibited unfair method of competition and unfair or deceptive act or practice by an HMO any retaliatory action by an HMO against a contracted provider, including, but not limited to, termination of a contract with a provider, on the basis that the provider communicated information to the provider’s patient regarding medical care or treatment options for the patient when the provider deems knowledge of such information by the patient to be in the best interest of the patient. (This is commonly referred to as the “gag clause.”)

The bill stipulates that an HMO or a health care provider may not terminate a contract with a health care provider or an HMO unless the party terminating the contract provides the terminated party with a written reason for contract termination, which may include termination for business reasons of the terminating party. The stated reason for termination or any other information relating to the reason for the termination does not create any new administrative or civil action and may not be used as substantive evidence in any action, but may be used for impeachment purposes. The term “health care provider” is defined as any physician or group of physicians licensed under chapter 458, 459, 460, or 461, F.S., or a dentist licensed under chapter 466, F.S.

The bill also specifies that, in termination of a contract between an HMO and a treating physician for any reason other than cause, each party to the contract shall allow subscribers for whom treatment was active to continue coverage and care when medically necessary through completion of treatment of a condition for which the subscriber was receiving care at the time of the termination, until the subscriber selects another treating provider, or during the next open enrollment period offered by the HMO, whichever is longer, but no longer than 6 months after termination of the contract. This provision also allows a subscriber who has initiated a course of prenatal care, regardless of the trimester in which care is initiated, to continue care and coverage until completion of postpartum care. These provisions do not preclude a provider from refusing to continue to provide care to a subscriber who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subsection, the HMO and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days before termination of a contract are effective only if agreed to by both parties.

The bill amends the state group insurance program provision to stipulate that in termination of a contract between a treating provider and the state contracted health maintenance organization for any reason other than cause, each party shall allow any enrollee for whom treatment was active to continue coverage and care when medically necessary through completion of treatment of a condition for which the enrollee was receiving care at the time of the termination, until the enrollee selects another treating

provider, or during the next open enrollment period offered, whichever is longer, but no longer than 6 months after termination of the contract. Each party to the terminated contract shall allow an enrollee who has initiated a course of prenatal care, regardless of the trimester in which care is initiated, to continue care and coverage until completion of postpartum care. These provisions do not preclude a provider from refusing to continue to provide care to an enrollee who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subsection, the HMO and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days before termination of a contract are effective only if agreed to by both parties.

Effective July 1, 1999, and applicable to policies and contracts issued or renewed on or after that date, HMO rates and rating methodologies are subject to the same requirements as are applicable to indemnity health insurance policies. Specifically, rates charged by any HMO to subscribers shall not follow a rating methodology that is inconsistent, indeterminate, or ambiguous or encourages misrepresentation or misunderstanding. Any change in rates charged for the HMO contract must be filed with the Department of Insurance not less than 30 days in advance of the effective date. At the expiration of such 30 days, the rate filing shall be deemed approved unless prior to such time the filing has been affirmatively approved or disapproved by order of the department. The approval of the filing by the department constitutes a waiver of any unexpired portion of such waiting period. The department may extend by not more than an additional 15 days the period within which it may so affirmatively approve or disapprove any such filing, by giving notice of such extension before expiration of the initial 30-day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such filing shall be deemed approved.

The effective date of the bill is upon becoming a law, and the provisions apply only to contracts entered into after the effective date.

CS/HB 377--Bone Marrow Transplant by Insurance; Bense and Others

House Committee(s) of Reference: Health Care Services; Insurance; General Government Appropriations

This bill requires health insurers and health maintenance organizations (HMOs) to cover the costs associated with the donor patient to the same extent that the current law requires the insurer or HMO to cover costs associated with the insured for covered bone marrow transplant procedures that are determined to be scientifically acceptable and non-experimental for certain types of cancer. Insurers and HMOs may limit the reasonable costs of searching for the donor to immediate family members and the

National Bone Marrow Donor Program. (Section 627.4236, F.S., currently prohibits an insurer or an HMO from using a policy exclusion for experimental, clinical investigative, educational, or similar treatments to exclude coverage for bone marrow transplant procedures for cancer when such procedures are recommended by the referring physician and the treating physician and the particular use of the procedure is accepted within the appropriate oncological speciality and is determined by rule not to be experimental.)

The bill also expands the membership of the Organ Transplant Advisory Council within the Agency for Health Care Administration from 8 to 12 members and increases the term of office of the council chairman from one year to two years.

The bill provides a legislative finding that the bill fulfills an important state interest.

The costs associated with the donor patients are anticipated to be an aggregate of \$2.2 million to the private insurance and HMO industry. In addition, an estimated \$19,775 cost will be incurred for potential state-employee-related bone marrow donor coverage costs.

Expansion of the membership of the Organ Transplant Advisory Council has a projected meeting travel-related cost of \$1,768 in fiscal year 1999-2000 and an annualized cost of \$3,536 in the Agency for Health Care Administration.

The effective date of the bill is January 1, 2000.

HB 521--Florida Independent Living Council by Casey and Others (Passed as SB 114 by Brown-Waite and Others)

House Committee(s) of Reference: Health Care Services

This bill authorizes the Florida Independent Living Council to be incorporated as a not-for-profit corporation. (The change complies with the Federal Rehabilitation Act of 1973, as amended, which states that Independent Living Councils shall not be entities within a state agency.) Should the board decide to incorporate as a not-for-profit, the board membership for the corporation would include the appointed members of the council. The bill was amended to clarify that the assignment of the Florida Independent Living Council to the Division of Vocational Rehabilitation for administrative purposes shall not apply if the council incorporates as a not-for-profit corporation.

The bill also modifies the composition of council membership to a minimum of 14 members, allowing the council the option to add additional members, as necessary.

The bill does not have a fiscal impact on state or local government.

The effective date of the bill is July 1, 1999.

HB 633--Nassau County General Hospital by Crady

House Committee(s) of Reference: Health Care Services; Community Affairs

This bill repeals chapter 21228, L.O.F., which provided for an election to be held in Nassau County on the question of levying an annual tax for establishing and maintaining a public hospital at Fernandina in Nassau County. Additionally, the act validated the authorization and issuance of hospital bonds and acts relating to the appointment and organization of a board of hospital trustees for the Nassau County hospital. The bill also *expressly* repeals all prior special acts relating to the hospital district.

(In 1994, chapter 94-446, L.O.F., was passed, which allowed the hospital board of trustees for Nassau General Hospital to sell or lease the hospital and all related facilities and assets to a private or public not-for-profit or for-profit corporation. Effective July 1, 1994, the Board of Trustees of Nassau General Hospital sold all of its assets to Baptist Medical Center-Nassau pursuant to the authority granted in chapter 94-446, L.O.F. The Board of Trustees of Nassau General Hospital was dissolved, effective August 31, 1994, by Board resolution on July 19, 1994. According to a letter from the State of Florida, Department of Community Affairs to the Baptist Medical Center-Nassau, the status of the hospital district was changed to "dissolved" in August 1994.)

The effective date of the bill is upon becoming law.

HB 687--Public Medical Assistance Trust Fund Task Force by Brummer (Passed as section 192 of HB 2125 by Health Care Services and Peaden & Others)

This bill provides for the establishment of a seven-member task force to review sources of funds deposited into the Public Medical Assistance Trust Fund. Members are to be appointed by the Senate President (2), the House Speaker (2), and the Governor (3). Specific study topics include: the need for any statute updates; whether current assessments are equitably imposed; whether exemption from or inclusions within the assessments are justified; and a review of federal requirements relating to provider assessments. In addition, the bill directs AHCA to provide staff support and technical assistance to the task force, and requires the task force to convene no later than August 1, 1999, and report its findings and recommendations by December 1, 1999.

The effective date of the bill is July 1, 1999.

HB 741--Rural Hospital Capital Improvement **by Kilmer and Others** (Passed as CS/CS/SB 890 by Fiscal Policy; Health, Aging and Long-Term Care; Mitchell and Others)

House Committee(s) of Reference: Health Care Services; Governmental Rules & Regulations; Health & Human Services Appropriations

This bill creates the rural hospital capital improvement grant program and provides a mechanism for a rural hospital to apply for a grant from the Department of Health. Each rural hospital as defined in s. 395.602, F.S., must receive a minimum of \$100,000 annually, subject to legislative appropriation, upon application to the Department of Health, for projects to acquire, repair, improve, or upgrade systems, facilities, or equipment. The Department of Health must establish, by rule, criteria for awarding grants for any remaining funds, which must be used exclusively for the support and assistance of rural hospitals, including criteria relating to the level of uncompensated care rendered by the hospital, the participation of the hospital in a rural health network, and the proposed use of the grant by the rural hospital to resolve a specific problem. The department must consider any information that rural hospitals submit in a grant application, and in determination of the hospital's eligibility for and the amount of the grant. The Department of Health must ensure that the funds are used solely for the purpose specified in the bill. Total grants awarded must not exceed the amount appropriated for the program.

The bill amends s. 395.602, F.S., to revise the definition of "rural hospital" to include a hospital in a constitutional charter county with a population of over 1 million persons that has imposed a local option health service tax pursuant to law and in an area that was directly impacted by a catastrophic event on August 24, 1992, for which the Governor of Florida declared a state of emergency pursuant to chapter 125, F.S., and has 120 beds or less that serves an agricultural community with an emergency room utilization of no less than 20,000 visits and a Medicaid in-patient utilization rate greater than 15 percent. (The effect of this provision is to recognize Homestead Hospital in Dade County as a rural hospital.)

The effective date of the bill is July 1, 1999.

While the bill itself provides no appropriation, Specific Appropriation 513A in the 1999-2000 General Appropriations Act includes \$4,350,000 for rural hospital capital improvement.

HB 783--Health Provider Contracts

by Murman (Passed as CS/SB 2554 by Banking and Insurance; King)

House Committee(s) of Reference: Health Care Services; Insurance; Health Care Licensing & Regulation; Health & Human Services Appropriations

This bill amends s. 626.022, F.S., to provide that this part does not apply to a certified public accountant licensed under ch. 473, F.S. who is acting within the scope of the practice of public accounting, as defined in s. 473.302, F.S., provided that the activities of the certified public accountant are limited to advising a client of the necessity of obtaining insurance, the amount of insurance needed, or the line of coverage needed, and provided that the certified public accountant does not directly or indirectly receive or share in any commission, referral fee, or solicitor's fee.

The bill requires that payments by a fiscal intermediary to a health care provider and health maintenance organizations (HMOs), include the following information: for a "*noncapitated*" health care provider, an explanation of services being reimbursed which includes the patient's name, date of service, procedure code, amount of reimbursement and plan identification; and for a "*capitated*" health care provider, a statement of services which includes the number of patients covered by the contract, rate per patient, total amount of payment, and the identification of the plan on whose behalf the payment is made.

The bill allows HMOs to increase the copayment for any benefit, or amend benefits to which a subscriber is entitled under a group contract, subject to written notice to the contract holder at least 45 days in advance of the time of coverage renewal. Such notice must identify deletions, limitations, or amendments to any benefits provided in the group contract which will be included in the group contract upon renewal.

In addition, the bill provides that if cancellation is due to nonpayment of premium, the insurer or health maintenance organization may not retroactively cancel the policy or contract to a date prior to the date that notice of cancellation was provided to the policyholder or subscriber unless the insurer or health maintenance organization mails notice of cancellation to the policyholder or subscriber prior to 45 days after the date the premium was due. Such notice must be mailed to the policyholder's or subscriber's last address as shown by the records of the insurer or health maintenance organization and may provide for a retroactive date of cancellation no earlier than midnight of the date that the premium was due.

Relating to converted policies for insurers and converted contracts for health maintenance organizations, the bill establishes that if termination was the result of failure to pay any required premium or contribution and such nonpayment of premium was due to acts of an employer, policyholder, or group contract holder other than the

employee, certificateholder, or individual subscriber, written application for the converted policy or contract must be made and the first premium must be paid to the insurer not later than 63 days after notice of termination is mailed by the insurer, health maintenance organization or the employer, whichever is earlier, to the employee's, certificateholder's, or individual's last address as shown by the record of the insurer, organization, or employer, whichever is applicable. In such case of termination due to nonpayment of premium by the employer, policyholder, or group contract holder, the premium for the converted policy or contract may not exceed the rate for the prior group coverage for the period of coverage under the converted policy or contract prior to the date notice of termination is mailed to the employee, certificateholder, or individual subscriber.

The bill further requires that HMO contracts providing for massage must also cover the services of persons licensed to practice massage under certain circumstances. Such massage services are subject to the same terms, conditions, and limitations as other providers.

Finally, a contract between a HMO and health care provider may not contain provisions which prohibits or restricts: the health care provider from entering into a commercial contract with any other HMO; or the HMO from entering into a commercial contract with any other health care provider.

The effective date of the bill is July 1, 1999.

HB 797--Minority HIV and AIDS Prevention

by Hill (SB 1908 by Dawson-White & Others; passed as Sections 200-202 of HB 2125 by Health Care Services and Peaden & Others)

The bill establishes the Minority HIV and AIDS Task Force within the Department of Health. The task force will develop and provide recommendations to strengthen HIV and AIDS prevention and treatment programs in minority communities. The Secretary of the Department of Health will appoint at least 15 persons to the task force. Membership will include, but not be limited to: persons infected with HIV or AIDS; minority community-based support organizations; minority treatment providers; members of the religious community within groups of persons infected with HIV or AIDS; and the Department of Health. The task force is required to report research findings and recommendations to the Legislature by February 1, 2001. The task force will be abolished by July 1, 2001.

The bill also directs the Department of Health to develop and implement a statewide HIV and AIDS minority prevention campaign. Elements of the campaign are to consist of: television, radio, and outdoor advertising; public service announcements; and peer-to-peer outreach intended to reach minorities at risk of HIV infection.

The bill establishes four additional positions within the Department of Health. The regional minority coordinators will facilitate statewide efforts to implement and coordinate HIV and AIDS prevention and treatment efforts. The statewide coordinator will report findings, conclusions, and recommendations directly to the chief of the Bureau of HIV and AIDS within the Department of Health. In conjunction with the Minority HIV and AIDS Task Force and the Department of Health, the minority statewide coordinator will conduct a Black Leadership Conference on HIV and AIDS to convene by January 2000.

The bill provides an appropriation of \$250,000 from the General Revenue Fund for carrying out the provisions of the Minority HIV and AIDS Task Force.

The effective date of the bill is July 1, 1999.

HB 811--Child Protection Team Services

by Brown (CS/SB 2118 by Health, Aging and Long-Term Care; Dawson-White)

House Committee(s) of Reference: Health Care Services; Children & Families; Health & Human Services Appropriations

This bill amends s. 39.202, F.S., 1998 Supplement, relating to the confidentiality and exemption from public disclosure of certain medical treatment information generated by child protection teams of the Department of Health, to authorize the release of limited information for purposes of reimbursement by health plan payors. This authorization is provided to facilitate payment by health maintenance organizations and insurers to pediatricians and other health care providers under contract with the Department of Health who perform medical evaluations and diagnoses relating to suspected or alleged child abuse, abandonment, or neglect.

The effective date of the bill is July 1, 1999.

HB 855--School Health Services

by Minton and Betancourt (Passed as CS/SB 1356 by Health, Aging and Long-Term Care; Klein and Others)

House Committee(s) of Reference: Health Care Services; Education/K-12; Community Affairs; General Appropriations

This bill:

- Amends the School Health Services Act (s. 381.0056, F.S.), to: add a definition of the term "entity" or "health care entity"; specify that schools make *adequate* space available for health services; specify that certain services be documented

as part of the local school health services plan; and specify that any person providing school health services under a local school health services plan be considered an instrumentality of the state for purposes of sovereign immunity.

- Creates s. 381.0059, F.S., which requires background screening for persons providing school health services.
- Directs the Department of Health to determine a means through which local units of government other than county health departments could be designated as Title V (Maternal and Child Health Block Grant) agencies.
- Provides for a Department of Health work group relating to the training requirements for nurses providing school health services.

Several provisions were deleted from the bill because of potential fiscal concerns. These provisions included: a short title; reference to matching funds for school nurse services public-private partnerships; legislative intent with regard to funding for a nurse in every school from tobacco settlement funds; and a \$75,000 appropriation of non-recurring General Revenue funds for a school health summit.

The effective date of the bill is July 1, 1999.

HB 1415 -- State Group Insurance Program (SB 800 by Thomas & Others; passed as Section 4 of CS/SB 232 by Banking and Insurance Committee and Latvala & Others)

The bill amends the state group insurance program provision to stipulate that in termination of a contract between a treating provider and the state contracted health maintenance organization for any reason other than cause, each party shall allow any enrollee for whom treatment was active to continue coverage and care when medically necessary through completion of treatment of a condition for which the enrollee was receiving care at the time of the termination, until the enrollee selects another treating provider, or during the next open enrollment period offered, whichever is longer, but no longer than six months after termination of the contract. Each party to the terminated contract shall allow an enrollee who has initiated a course of prenatal care, regardless of the trimester in which care is initiated, to continue care and coverage until completion of postpartum care. These provisions do not preclude a provider from refusing to continue to provide care to an enrollee who is abusive, noncompliant, or in arrears in payments for services provided. For care continued under this subsection, the HMO and the provider shall continue to be bound by the terms of the terminated contract. Changes made within 30 days before termination of a contract are effective only if agreed to by both parties.

This act takes effect upon becoming law and applies only to contracts entered into after the effective date.

HB 1585--Parental Notice of Abortion Act
by Murman (Passed as CS/SB 1598 by Health, Aging, and Long- Term
Care; Bronson)

House Committee(s) of Reference: Health Care Services; Judiciary; Crime &
Punishment; Health & Human Services Appropriations

This bill provides certain limitations on a minor's right to an abortion in Florida. Specifically, the bill requires the person performing or inducing the termination of a pregnancy of a minor to notify the parent or legal guardian of the minor's intention at least 48 hours prior to performing or inducing the termination of pregnancy.

The bill also provides for disciplinary action for violations of the notice requirement and for procedures for judicial waiver of notice. The court is required to issue an order authorizing the minor to consent to the termination of pregnancy if the court finds, by clear evidence, that the minor is sufficiently mature to make the decision or there is evidence of child abuse or neglect, or sexual abuse of the complainant by one or both of her parents, her guardian, or her custodian.

In addition, the bill requires the court to conduct waiver proceedings, to issue written and specific factual findings and legal conclusions supporting its decision, and to maintain confidential records of the evidence and findings. Expedited confidential appeal is allowed, as provided by Florida Supreme Court rule, and filing fees shall not be required of minors who petition for waiver. Minors have the right to court-appointed counsel upon their request and the Florida Supreme Court is requested to adopt rules to ensure that judicial proceedings for waiver are handled in an expeditious and confidential manner and in a manner satisfying state and federal courts.

Finally, the bill provides that notice shall not be required if: a medical emergency exists; notice is waived in writing by the person who is entitled to notice; the minor is or has been married or has the disability of nonage removed; or notice is waived through a judicial procedure.

The effective date of the bill is July 1, 1999.

HB 1871--Autism/Clinical Trials/Secretin
by Tullis (SB 976 by Myers; passed as Section 61 of HB 2125 by
Health Care Services and Peaden & Others)

This bill directs the Division of Children's Medical Services of the Department of Health to contract with a private nonprofit provider affiliated with a teaching hospital to conduct clinical trials, approved by a federally-sanctioned institutional review board within the teaching hospital, on the use of the drug Secretin to treat autism.

The effective date of the bill is July 1, 1999.

CS/HB 1927&961--Managed Health Care by Health Care Services; Eggeletion, Lacasa, and Others

House Committee(s) of Reference: Health Care Services; Health & Human Services Appropriations

This bill requires the State Center for Health Statistics to publish and make available to the public HMO report cards.

The bill clarifies that the Statewide Provider and Subscriber Assistance Panel is precluded from hearing grievances that are part of an internal grievance process in a Medicare managed care entity. Accrued interest on unpaid balances, court costs, and transportation costs associated with grievance procedures are also included in the list of incidental expenses that cannot form the basis for grievances before the panel. The bill expands the membership requirements for the panel to include: a consumer, appointed by the Governor; a physician, appointed by the Governor, as a standing member; and physicians who have expertise relevant to the case to be heard, on a rotating basis.

The bill establishes that any policy issued under s. 627.6471, F.S., which does not provide direct patient access to a dermatologist must conform to the requirements of s. 627.6472(16). Such requirements shall not be construed to affect the amount the insured or patient must pay as a deductible or coinsurance amount authorized under s. 627.6471, F.S.

The bill authorizes an HMO to offer as a rider to a contract for comprehensive health care services a point-of-service benefit, whereby HMO subscribers may choose to receive services from a provider with whom the HMO does not have a contract, exclusive of a referral for such services. To offer such a rider, the HMO must have been licensed in Florida for at least three years and have a minimum surplus of \$5 million; and the HMO's point-of-service business must not exceed 15 percent of the HMO's total product premium. The point-of-service plan can include copayments and annual deductibles, and must be filed with and approved by Department of Insurance.

The bill provides that chronic disease management measures, preventive health care for adults and children, prenatal care measures, and child health checkup measures

are required data to be released to the agency as indicators of HMO access and quality of care.

In addition, the bill requires that conducting an annual health maintenance organization member satisfaction survey and contracting with physician consultants for the Statewide Provider and Subscriber Assistance Panel be added to the list of AHCA's authorized uses of regulatory assessment revenues deposited into the Health Care Trust Fund.

The bill establishes that the provisions of s. 409.910(7), F.S., relating recovery of Medicaid benefits when other parties are liable, do not apply to any proceeds received by the state, or any agency thereof, pursuant to a final order, judgment, or settlement agreement, in any matter in which the state asserts claims brought on its own behalf, and not as a subrogee of a recipient, or under other theories of liability, or in any matter in which the state asserted both claims as a subrogee and additional claims. The bill further states that these amendments to s. 409.910, F.S., 1998 Supplement, are: intended to clarify existing law; remedial in nature; and specifically made retroactive to October 1, 1990.

In addition, the bill provides that if cancellation is due to nonpayment of premium, the insurer or health maintenance organization may not retroactively cancel the policy or contract to a date prior to the date that notice of cancellation was provided to the policyholder or subscriber unless the insurer or health maintenance organization mails notice of cancellation to the policyholder or subscriber prior to 45 days after the date the premium was due. Such notice must be mailed to the policyholder's or subscriber's last address as shown by the records of the insurer or health maintenance organization and may provide for a retroactive date of cancellation no earlier than midnight of the date that the premium was due.

Relating to converted policies for insurers and converted contracts for health maintenance organizations, the bill establishes that if termination was the result of failure to pay any required premium or contribution and such nonpayment of premium was due to acts of an employer, policyholder, or group contract holder other than the employee, certificateholder, or individual subscriber, written application for the converted policy or contract must be made and the first premium must be paid to the insurer not later than 63 days after notice of termination is mailed by the insurer, health maintenance organization or the employer, whichever is earlier, to the employee's, certificateholder's, or individual's last address as shown by the record of the insurer, organization, or employer, whichever is applicable. In such case of termination due to nonpayment of premium by the employer, policyholder, or group contract holder, the premium for the converted policy or contract may not exceed the rate for the prior group coverage for the period of coverage under the converted policy or contract prior to the date notice of termination is mailed to the employee, certificateholder, or individual subscriber.

Further, the bill: provides that any retroactive reductions of payments or demand for refund of previous overpayments which are due to retroactive review of coverage decisions or payment levels and any retroactive demands by providers for payment due to underpayments or non-payments for covered services must be reconciled to specific claims unless the parties agree to other reconciliation methods and terms; allows the look back period to be specified by the terms of the contract; and requires the Agency for Health Care Administration to establish an advisory group to study and make recommendations relating to payment of claims.

The bill provides that area agencies on aging within the Department of Elderly Affairs are subject to ch. 119, F.S., relating to public records, and when considering any contracts requiring the expenditure of funds, are subject to ss. 286.011-286.012, F.S., relating to public meetings.

Finally, the bill amends subsection (13) of section 409.912, F.S., relating to the purchase of goods and services for Medicaid recipients, to require the Agency for Health Care Administration to develop: capabilities to identify actual and optimal practice patterns; patient and provider educational initiatives; methods for determining patient compliance with prescribed treatments; fraud, waste, and abuse prevention and detection programs; and beneficiary case management programs. An advisory board is established to evaluate practitioner prescribing patterns and to recommend ways to incorporate their use in the practice pattern identification program.

The bill provides for an appropriation of \$1,439,000 from the Health Care Trust Fund to the Agency for Health Care Administration for purposes of implementing the provisions of the bill.

The effective date of the bill is upon becoming a law.

HB 1985 -- Biomedical Research by Fasano and Littlefield (SB 2558; passed as Section 2 of HB 1885 by Maygarden)

This bill provides for the creation of a biomedical research program to support research initiatives that address the health care problems of Floridians in the areas of cancer, cardiovascular disease, stroke, and pulmonary disease, to be established within the Department of Health.

The bill provides for funds to be appropriated from the Tobacco Settlement Trust Fund to the Department of Health for the exclusive purpose of awarding grants and fellowships under the biomedical research program and for administrative expenses. Such research must relate to the diagnosis and treatment of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease.

In addition, the bill

- provides for a Biomedical Research Advisory Council to be created within the Department of Health to advise the Secretary of Health as to the direction and scope of the biomedical research program;
- provides that any university or established research institute in the state may submit applications for biomedical research funding under the program, and grants and fellowships will be awarded by the Secretary of Health, after consultation with the council, on the basis of scientific merit; and
- requires an annual progress report on the state of biomedical research in Florida, to be submitted by the council to the Governor, the Secretary of Health, the President of the Senate, and the Speaker of the House of Representatives.

The effective date of the bill is July 1, 1999.

HB 2071 (PCB HCS 99-07)--Insurance
by Health Care Services and Peaden (Passed as CS/SB 312 by
Banking and Insurance; Lee)

House Committee(s) of Reference: None

This bill addresses several insurance issues. The bill addresses some of the concerns raised in three reports released by the Fourteenth Statewide Grand Jury in December 1998, related to insurance fraud.

The bill facilitates the licensing and appointment procedures for entities offering credit property, credit life, credit disability, and credit insurance.

Specific insurance fraud provisions addressed in the bill include:

- Criminal penalties for insurance fraud are increased;
- Statutes of limitations for prosecuting insurance fraud are extended;
- An Anti-Fraud Reward Program is established, and \$250,000 is appropriated from the Insurance Commissioner's Regulatory Trust Fund to implement the program;
- HMOs are required to file anti-fraud plans and establish special investigative units;
- HMOs and HMO contracts are included under the law prohibiting false and fraudulent insurance claims and applications; and
- The criminal penalty for first offenses of "patient brokering" provisions are increased.

The bill defines “collateral protection insurance” in the context of the Florida Hurricane Catastrophe Fund, joint underwriters and joint reinsurers, and insurance risk apportionment plans. Such insurance is not residential coverage.

The bill also addresses health insurance issues relating to the cancellation of coverage as a result of the non-payment of premiums by an employer. The bill:

- Limits the right of an insurance company or health maintenance organization (HMO) to retroactively cancel a group health insurance policy due to nonpayment of premium by the employer, and imposes certain notice requirements for enrollees prior to coverage cancellation.
- Protects the employee’s right to elect a conversion health insurance policy in the event of such a cancellation.
- Clarifies current law to allow group insurers to contract with another insurer to issue conversion contracts on its behalf, provided that the other insurer is authorized in Florida and the policy has been approved by the Department of Insurance.

The effective date of the bill is October 1, 1999, and shall apply to policies and contracts issued or renewed on or after that date.

HB 2111 (PCB HCS 99-02) -- Mental Health and Substance Abuse by Health Care Services and Peaden (Passed as Section 4 of HB 2003 by Children and Family Services and Murman)

This bill creates the Commission on Mental Health and Substance Abuse and specifies the duties of the Commission and the membership that is appointed by the President of the Senate, Speaker of the House of Representatives, and the Governor. The Legislature intends for this Commission to conduct a systematic review of the overall management of the state’s mental health and substance abuse system for updating chapter 394, part IV, F.S. An interim report to the Governor and the Legislature is due no later than March 1, 2000, and the final report with statutory modifications is due to the Governor and the Legislature no later than December 1, 2000.

The effective date is July 1, 1999.

HB 2125 (PCB HCS 99-05)--Health Department by Health Care Services; Peaden (Also includes: CS/HB 319, HB 687, HB 797, HB 965, HB 1073, HB 1431, CS/HB 1467, HB 1703, HB

1847, HB 1871, HB 1881, HB 2031, and HB 2239)

House Committee(s) of Reference: Governmental Operations; Governmental Rules & Regulations; Health & Human Services Appropriations

GENERAL PROVISIONS RELATING TO THE DEPARTMENT OF HEALTH

This bill includes several provisions designed to improve efficiency of public health programs within the Department of Health. These provisions: clarify language regarding the use of incentives and promotional items in disease prevention and health education; revise the list of divisions that are authorized to exist in the department; update career service exemptions; permit the department to contract with the Department of Children and Family Services to conduct administrative hearings in matters concerning the Special Supplemental Food Program for Women, Infants, and Children (WIC) and Children's Medical Services (CMS); clarify co-payment requirements relating to primary care challenge grants; authorize the department to purchase automobiles for use by county health departments; remove any responsibility regarding alligator management and trapping from the Department of Health and Rehabilitative Services; correct the name of the WIC program to conform to federal law; revise the membership of the Diabetes Advisory Council; and remove language requiring the department to reimburse hospitals for the cost of furnishing data for the cancer registry.

The bill also: removes language that prevents the preliminary HIV test results of a mother who has just given birth from being released to the mother at the time of delivery; clarifies requirements relating to the performance of HIV tests on deceased persons; gives the department authority to adopt rules relating to inspection of certain group care facilities; gives the department authority to adopt rules relating to family planning; provides a definition for "multi-family water system"; revises the definition of "private water system"; authorizes nursing homes to purchase medical oxygen; revises the membership of the Health Information Systems Council; requires the council to establish a review process for agency health-related data collection and maintenance; permits the Department of Health to become an accrediting entity of the National Environmental Laboratory Accreditation program; permits the Department of Health to pass on an increase in examination costs that the American Registry of Radiologic Technologist will make on January 1, 2000; changes the time of biennial renewal to the birth month of the certified radiologic technician from December 31; provides names for three Department of Health buildings; repeals obsolete and unnecessary provisions relating to the submission of Healthy Communities plans and transportation of radioactive materials; allows the department to use excess money for the improvement of health facilities at and authorizes the department to establish an advisory body for, the A.G. Holley State Hospital.

Vital Statistics

The bill revises department authority relating to vital records; provides the department with authority to adopt rules for the requirement of notarized documents; removes language relating to reproduction and destruction of records and the disclosure of certain social security numbers; and clarifies procedures and modifies reporting requirements relating to birth records;

Public Medical Assistance Trust Fund

The bill provides for the establishment of a seven-member task force to review sources of funds deposited into the Public Medical Assistance Trust Fund. Members are to be appointed by the Senate President (2), the House Speaker (2), and the Governor (3). Specific study topics include: the need for any statute updates; whether current assessments are equitably imposed; whether exemption from or inclusions within the assessments are justified; and a review of federal requirements relating to provider assessments. In addition, the bill directs AHCA to provide staff support and technical assistance to the task force, and requires the task force to convene no later than August 1, 1999, and report its findings and recommendations by December 1, 1999.

Trauma Care

The bill provides legislative findings and intent that there has been a lack of timely access to trauma care due to the state's fragmented trauma system and that there is a necessity to plan for and establish an inclusive system which would incorporate and coordinate all providers who have resources to meet the needs of trauma victims. In addition, the bill: finds that there would be significant benefits from coordinating the trauma-related activities of several state agencies; states the intent of the Legislature to place primary responsibility for planning a statewide system with the Department of Health; finds that there would be significant benefit from the department, the Agency for Health Care Administration and the Boards of Medicine and Nursing establishing interagency teams and agreements to develop guidelines, standards, and rules; gives leadership responsibility for this activity to the Department of Health; provides for developing and submitting federal waivers as necessary; provides specific duties and issues which the multiple agencies must address; and requires medical directors of emergency medical services providers to have medical accountability for the trauma victim during an inter-facility transfer.

The bill encourages the department to foster the provision of trauma care and serve as a catalyst for improvements in trauma care including the promotion of trauma centers and agencies in each trauma region and updating the state trauma system plan by December, 2000, and every five years thereafter.

In addition, the bill: deletes the definitions of local and regional trauma agencies; provides a definition of trauma agency, which may be established and operated by one or more counties; provides a definition of "trauma alert victim"; modifies the definition of

“trauma victim” to include injuries due to burns and to remove “life-threatening” as a condition of being defined as a trauma victim; decreases the frequency for submission of trauma agency plans from annually to every five years; eliminates requirements for the department to approve or disapprove plans within specified time frames; removes requirements for public hearings with adequate notice; and removes the requirement that trauma agencies submit written notice to the department 90 days prior to ceasing operation.

The bill deletes periodic revision by the Legislature of county trauma service area assignments based on recommendations made in local or regional trauma plans. The bill requires the department to assume this review and assignment function, and requires the department to take into consideration regional recommendations and the recommendations made as a part of the state trauma plan in the review and assignment function. The review is to take place in the year 2000 and every five years thereafter.

The bill requires that Level I and Level II trauma centers should each have the capability of treating a minimum of 1,000 and 500 trauma patients, respectively, with injury severity scores of nine or greater annually.

The bill requires Emergency Medical Services providers to transport trauma alert victims to hospitals approved as trauma centers, except as provided in local or regional trauma protocols or, if no local or regional trauma protocol is in effect, as provided for in a provider’s departmentally approved trauma protocol and that trauma alert victims be identified through the use of a trauma scoring system.

Medicaid

The bill requires the Department of Children and Family Services and the Agency for Health Care Administration to develop a system to allow unborn children of Medicaid-eligible mothers to be issued a Medicaid identification number to be used for billing purposes and for monitoring of care for the child beginning with the child’s date of birth; makes technical changes relating to eligibility for the Medicaid service package in the CMS program; provides for a phase-in of Medicaid capitated payments to CMS; gives the Department of Health and the Agency for Health Care Administration the ability to share confidential information when it needed for Medicaid reimbursement purposes; provides language to enable the Agency for Health Care Administration to pursue a certified match program to use local and state Healthy Start funding to draw down federal matching funds in the event that the federal government does not approve the pending Healthy Start waiver request; amends the section of statute relating to Medicaid third-party liability to require health insurers and health maintenance organizations to develop the capability for tape matches for purposes of Medicaid file matches, using the Medicare standard billing format, to determine if Medicaid recipients might have any applicable insurance coverage; creates the “Medicaid Estate Recovery

Act,” which codifies into statute Medicaid’s estate recovery process; amends the section of statute relating to Medicaid provider service network demonstration projects as a cost-effective means of purchasing, to delete the requirement that one of the four demonstration projects be conducted in Orange County; authorizes the Agency for Health Care Administration to withhold payments in whole or in part based on evidence of fraud, willful misrepresentation, or criminal activities associated with the delivery of Medicaid goods or services; deletes existing limitations that the agency may only reduce payments up to ten percent of amounts owed, or up to \$25,000 per month when an overpayment by the agency exceeds \$75,000; provides for prompt payment of withheld payments to providers once withholding disputes are settled; creates a new section of statute that specifically addresses Medicaid program integrity issues in the context of Medicaid physician providers; and repeals obsolete and unnecessary provisions relating to Medicaid alternative service networks; and requires the Agency for Health Care Administration to enter into agreements with the not-for-profit organizations based in this state for the purpose of providing vision screening.

Chapter 499--Drug, Cosmetics, and Household Products

The bill makes several amendments to ch. 499, F.S., to: clarify that a person must be authorized to sell or transfer prescription drugs under ch. 499, and that the person acquiring prescription drugs must be authorized to do so; clarify that providing the department with false information regarding any matter within the jurisdiction of ch. 499 is prohibited; prohibit distribution of a legend device to a patient without a prescription or order from a licensed practitioner; conform the prescription statement on labels to recently enacted federal language; and authorize federal, state, and local government employees, acting within the scope of employee, to possess prescription drug samples.

Emergency Medical Services

The substance of CS/HB 1431 was amended onto this bill to establish statutory authority for specific sections of Chapter 64-E, Florida Administrative Code. The bill provides statutory authority for current rules that relate to the regulation of emergency medical technician and paramedic education programs, staffing of advanced life support transport vehicles, and the provision of a patient’s prehospital medical record to the hospital that receives the patient.

Credentialing

House Bill 1881 was added to this bill to provide for the standardized credentialing process for health care practitioners licensed under chapters 458, 459, 460, and 461, F.S. (medical, osteopathic medicine, chiropractic medicine, and podiatric medicine physicians, respectively).

The principle changes are the following:

- The Department of Health is no longer identified as a credentialing verification entity (CVE) for all health care practitioners in the state. The department is designated as a depository for mostly unverified core credentials data and responsible for corrections, updates, or modifications to such data. The bill provides that core credentials data be electronically available to any health care entity that is authorized access to the data by the health care practitioner. Access to the new system without prior approval of the health care practitioner is prohibited.
- The definition of “core credentials data” has been changed to accommodate the needs of the health care entities. The bill also requires the renaming of a CVE to “credentials verification organization” (CVO), which is the common name used in the industry.
- All practitioners are required to provide “core credentials data” and corrections, updates, or modifications to such data to the department instead of a designated CVO. However, a health care practitioner may still designate a CVO for the same purpose. A designated CVO must meet the time frames established for a practitioner or face license suspension. Also, a designated CVO is prohibited from releasing any information without prior approval of the practitioner.
- The time period for reporting certain incidents is changed from within 30 days to within 45 days to coincide with the requirements of profile reporting. Rather than file two reports (profile and credentials update), a credentials report is redesigned to comply with the requirements of a profile report.
- Effective July 1, 2002, no Florida agency may collect or attempt to collect duplicate core credentials data from any practitioner if the information is available from the department. This does not restrict requesting additional information not included in the department’s file.
- A CVO must maintain liability insurance to meet certification or accreditation requirements.
- Provides that no health care entity or CVO is liable if information/data was obtained directly from the department.

REGULATION OF HEALTH CARE PRACTITIONERS

House Bill 1467 was amended onto HB 2125 to include provisions relating to various health care practitioners regulated by the Department of Health.

General Provisions - Chapter 455, F.S.

With regard to regulation of health care practitioners, this bill: establishes a uniform definition for sexual misconduct and its prohibition; expands the opportunity for regulatory boards to discipline practitioners for certain violations (including failing to comply with the requirements of profiling and credentialing, testing positive for drugs or illegal drugs without a legitimate medical reason for such drug, and failing to inform patients about their rights); clarifies that business establishments regulated by the Division of Medical Quality Assurance (MQA) are required to maintain an active business license; removes information on hospital discipline of a health care practitioner from the practitioner profile report prepared by the Department of Health; and expands the definitions in s. 455.667, F.S., to provide that in certain instances, the department may obtain patient records, billing records, and insurance records without patient consent if a complaint has been filed alleging inadequate medical care, fraud, kickbacks, etc., and certain conditions are met. The bill also directs the Division of Children's Medical Services of the Department of Health to contract with a private nonprofit provider affiliated with a teaching hospital to conduct clinical trials, approved by a federally-sanctioned institutional review board within the teaching hospital, on the use of the drug Secretin to treat autism; requires midwives to meet the financial requirements contained in s. 455.694, F.S.; provides language establishing that there is no presumption that a blood-borne infection is a job-related injury; and provides that any person injured as a result of a willful violation of section 455.561, F.S., relating to disclosure of confidential information, shall have a civil cause of action for treble damages, reasonable attorney fees, and costs.

Acupuncture - Chapter 457, F.S.

The bill provides for acupuncture teaching permits and allows faculty from other countries and states to teach in schools in Florida, for a period of up to 12 months, without a Florida license. The bill also defines prescriptive rights to mean the prescription, administration, and use of needles and devices, restricted devices, and prescription devices that are used in the practice of acupuncture and oriental medicine.

Medicine - Chapter 458, F.S.

The bill specifies that individuals possessing temporary licenses to practice in areas of critical need may use work for approved employers in any area of critical need without getting approval for each area; establishes authority to convert active licenses to limited licenses for retirement/volunteer practice without making a full application and meeting the other requirements; increases the board's administrative fine cap for practice act violations from a maximum of \$5,000 per violation to \$10,000; and extends examination period for certain foreign physicians; authorizes the Department of Health to charge foreign licensed examinees a fee not to exceed 25% for the costs of the first exam and a fee not to exceed 75% of the actual costs for subsequent exams.

Osteopathic Medicine - Chapter 459, F.S.

The bill specifies that individuals possessing temporary licenses to practice in areas of critical need may use work for approved employers in any area of critical need without getting approval for each area; establishes authority to convert active licenses to limited licenses for retirement/volunteer practice without making a full application and meeting the other requirements; increases the board's administrative fine cap for practice act violations from a maximum of \$5,000 per violation to \$10,000; and adds authority to impose an administrative fine for a violation of a patient's rights.

Chiropractic Medicine - Chapter 460, F.S.

The bill exempts chiropractic students enrolled in an accredited chiropractic college and participating in a community-based internship under direct supervision of a credentialed doctor of chiropractic medicine from the provisions of ch. 460, F.S. Additionally, it defines community-based internship; authorizes the board to establish by rule, qualifications for serving as a supervising chiropractic physician and procedures for approving a supervisor; increases the board's administrative fine cap for practice act violations from a maximum of \$2,000 per violation to \$10,000; deletes the requirement for a post graduate internship for chiropractic licensure candidate; and allows for an undergraduate, "community-based" internship.

Podiatric Medicine - Chapter 461, F.S.

The bill provides a definition of the "practice of podiatric medicine" that includes the active practice of not less than two years of the four years prior to application. The bill defines a certified podiatric X-ray assistant as a person employed under the direct supervision of a licensed podiatric physician to perform specific radiologic functions; directs the board to adopt rules to implement this program; establishes provisions for the operation of X-ray machines by podiatric X-ray assistants; and increases the board's administrative fine cap for practice act violations from a maximum of \$1,000 per violation to \$10,000.

Nursing - Chapter 464, F.S.

The bill limits the number of times an applicant is permitted to take the examination to three consecutive times and requires remedial training approved by the board prior to subsequent examinations. In addition, the bill provides that no provisions of this chapter shall be construed to prohibit the practice of nursing by individuals enrolled in board-approved remedial courses and establishes certain uses of the title "Nurse" as misdemeanors of the first degree.

Pharmacy - Chapter 465, F.S.

The bill defines "data communication device" as an electronic device that receives electronic information from one source and transmits or routes it to another, including,

but not limited to, any such bridge, router, switch, or gateway; prohibits the use of records obtained through data communication devices; provides for the return of unit-dose prescriptions in institutions to include pharmacies located in correctional facilities; explicitly provides that a pharmacist may be disciplined for unauthorized release of a patient's records; increases the board's administrative fine cap for practice act violations from a maximum of \$1,000 per violation to \$5,000. In addition, the bill creates within the Department of Health a ten-member Task Force for the Study of Collaborative Drug Therapy.

Dentistry - Chapter 466, F.S.

The bill clarifies that written work order forms are no longer required to be furnished by the department. Dentists are required to obtain their own forms, but the board approves the form.

Speech-Language Pathology & Audiology - Chapter 468, Part I, F.S.

The bill clarifies that a master's degree or a doctor's degree with a major emphasis in speech-language pathology qualifies for licensure and requires a bachelor's degree for all speech-language pathology or audiology assistants.

Respiratory Therapy - Chapter 468, Part V, F.S.

The bill creates the Board of Respiratory Care in place of the Advisory Council of Respiratory Care. It also revises membership of the board, establishes that board in this part refers to the Board of Respiratory Care rather than the Board of Medicine, and provides that the board may adopt rules to administer this part.

Athletic Trainer - Chapter 468, Part XIII, F.S.

The bill converts the Council of Athletic Training composed of seven members reporting to the department to a Board of Athletic Training composed of nine members. It requires five of the council members to be athletic trainers, one member to be a physician licensed under ch. 460, a physician licensed under either chapter 458 or 459, and two members to be consumer; and provides for staggered terms. The board shall maintain its headquarters in Tallahassee. All council member terms are terminated on July 1, 1999. Council members may be considered for appointment to the new board.

Orthotics, Prosthetics, & Pedorthics - Chapter 468, Part XIV, F.S.

The bill provides a "grandfather" provision for certain professionals. Applicants who successfully completed, prior to March 1, 1998, at least half of the examination requirements for national certification, and completed the remaining portion prior to July 1, 1998, are "grandfathered" in and considered as nationally certified by March 1, 1998.

Certified Nursing Assistants - Chapter 468, Part XV

House Bill 2031 was added to HB 2125 to create part XV, chapter 468, F.S., to require the Department of Health to regulate the practice of certified nursing assistants in Florida. The bill provides requirements for certification. Additionally, the department is authorized to deny, suspend, or revoke certification of certified nursing assistants and to impose administrative penalties for the commission of prohibited acts specified in the bill.

Furthermore, the bill: authorizes the department to issue a letter of exemption from disqualification of certification; requires the department to maintain a registry of certified nursing assistants; provides for a first-degree misdemeanor penalty for a certified nursing assistant or applicant for certification who makes any false statement or fails to disclose information with respect to any voluntary or paid employment or licensure as a certified nursing assistant; gives the Department of Health access to the background screening registry for nursing home employees maintained by the Agency for Health Care Administration and the child abuse screening system maintained by the Department of Children and Family Services; requires each employer of certified nursing assistants to submit to the Department of Health a list of names and social security numbers of each person employed by the employer as a certified nursing assistant in a nursing-related occupation for a minimum of 8 hours for monetary compensation during the preceding 24 months; exempts an employer who terminates or denies employment to a certified nursing assistant whose certification is inactive as shown on the certified nursing assistant registry or whose name appears on the central abuse registry and tracking system of the Department of Children and Family Services or on a criminal screening report from the Florida Department of Law Enforcement from civil liability for the termination or denial; provides that any complaint or record maintained by the Department of Health pursuant to the discipline of a certified nursing assistant and any proceeding held by the department to discipline a certified nursing assistant shall remain open and available to the public; and authorizes the department to adopt rules for the implementation of part XV, chapter 468, F.S.

Electrolysis - Chapter 478, F.S.

The bill clarifies the definition of electrolysis to mean the permanent removal of hair by destroying the hair-producing cells using equipment and devices approved by the Board of Medicine and cleared by and registered with the U.S. Food and Drug Administration.

Clinical Laboratories - Chapter 483, Part I, F.S.

The bill expands the definition in s. 483.041, F.S., for clinical laboratories, by including specific services that are provided, and authorizes a clinical laboratory to accept an order from an out of state practitioner as long as the patient resides in the same state.

Clinical Laboratory Personnel - Chapter 483, Part III, F.S.

The bill revises several sections of law relating to this profession, mainly to conform clinical lab director qualifications to federal regulation, and strengthens and conforms grounds for disciplinary action to mirror provisions in other practice acts of professions regulated by MQA.

Medical Physicists - Chapter 483, Part IV, F.S.

The bill removes the provision for the issuance of a temporary license which is no longer necessary because the department is able to process applications in a timely manner.

Opticians - Chapter 484, Part I, F.S.

The bill provides that a licensed optician must have been licensed for at least one year prior to being able to supervise an apprentice.

Fitting/Dispensing of Hearing Aids - Chapter 484, Part II, F.S.

The bill provides that the period for a refund mirrors language that speech-language pathology and audiology have in their practice act, and requires a refund within 30 days of the return or attempted return of the hearing aid. Increases the penalty for the unlicensed practice of the profession from a second-degree misdemeanor to a third-degree felony.

Physical Therapy - Chapter 486, F.S.

The bill provides that a physical therapist may refer patients to or consult with licensed Advanced Registered Nurse Practitioners (ARNP), and revises several sections of statutes to repeal temporary license status.

Psychology - Chapter 490, F.S.

The bill amends a provision passed last year which provided that the date an applicant could submit to the board from prior to July 1, 2001, to August 31, 2001, and that the applicant was enrolled and graduated from a school, not accredited, but with a standard of education and training comparable to programs accredited by an agency recognized by the United States Department of Education; changes comparability from that determined by the board, to providing a certificate of comparability provided by the program director of an accredited doctoral-level psychology program; provides that a psychologist with a doctoral degree in psychology and has at least 20 years of experience as a licensee in any jurisdiction of the United States within 25 years preceding the date of application may be licensed in Florida; and provides that a

patient's psychological report may be released to an employer or insurance carrier.

Clinical Social Work, Marriage & Family Therapy, & Mental Health Counseling - Chapter 491, F.S.

The bill provides that applicants who register as interns on or before December 31, 2001, and meet the education requirements in effect on December 31, 2000, are deemed to have met the educational requirements for licensure and clarifies that an applicant may be issued a dual license and charged a fee.

Fiscal Intermediary Services - Sections 626.883 and 641.316, F. S.

The bill provides that all health care provider and health maintenance organization fiscal intermediaries are required to include a detailed explanation of services for payments to a health care provider.

REPORTS OF ADVERSE INCIDENTS/OFFICE SURGERY

House Bill 1847 was amended onto HB 2125 to establish that effective January 1, 2000, medical and osteopathic physicians must file reports of adverse incidents that occur in their offices within 15 days after the occurrence of the adverse incident; provides that adverse incidents include incidents resulting in the death of a patient, brain or spinal damage, performance of a surgical procedure on the wrong patient, performance of a wrong-site surgical procedure, and performance of a wrong surgical procedure; requires the report to be filed with the Department of Health, which determines whether disciplinary action is required against a licensee; and provides that if disciplinary action is necessary, it will be administered by the board which licensed the health care practitioner.

In addition, the Board of Medicine is granted rulemaking authority relating to standards of practice for office surgery and the department is authorized to require registration and inspection of offices where levels two and three office surgery is performed. The department will inspect the offices annually unless the office is accredited by a nationally recognized accrediting agency or an accrediting organization approved by the appropriate board.

RECREATIONAL SPORT DIVING

The bill requires the Department of Health to establish maximum levels of contaminants in compressed air used for recreational sport diving based on levels of contaminants allowed by the Grade "E" Recreational Diving Standards of the Compressed Gas Association. It requires compressed air vendors to collect a sample of air from their equipment and submit it to a laboratory certified by either the American Industrial Hygiene Association or the American Association for Laboratory Accreditation;

authorizes the department to issue certificates stating when vendors submitting samples meet the standards established by the department; provides that civil penalties are not to exceed \$500 for violations of the provisions of the bill; establishes that persons violating the provisions are liable for any damages resulting from the violation; and provides for exemptions from this legislation for any government entity using a governmentally owned compressed air source for work related activities, for any person providing compressed air for their own use, and for foreign registered vessels upon which a compressor is used to provide compressed air for work related to the operation of the vessel.

THE MINORITY HIV AND AIDS TASK FORCE

The bill establishes the Minority HIV and AIDS Task Force within the Department of Health. The task force will develop and provide recommendations to strengthen HIV and AIDS prevention and treatment programs in minority communities. The Secretary of the Department of Health will appoint at least 15 persons to the task force. Membership will include, but not be limited to: persons infected with HIV or AIDS; minority community-based support organizations; minority treatment providers; members of the religious community within groups of persons infected with HIV or AIDS; and the Department of Health. The task force is required to report research findings and recommendations to the Legislature by February 1, 2001. The task force will be abolished by July 1, 2001.

The bill also directs the Department of Health to develop and implement a statewide HIV and AIDS minority prevention campaign. Elements of the campaign are to consist of: television, radio, and outdoor advertising; public service announcements; and peer-to-peer outreach intended to reach minorities at risk of HIV infection.

The bill establishes four additional positions within the Department of Health. The regional minority coordinators will facilitate statewide efforts to implement and coordinate HIV and AIDS prevention and treatment efforts. The statewide coordinator will report findings, conclusions, and recommendations directly to the chief of the Bureau of HIV and AIDS within the Department of Health. In conjunction with the Minority HIV and AIDS Task Force and the Department of Health, the minority statewide coordinator will conduct a Black Leadership Conference on HIV and AIDS to convene by January 2000.

The bill provides an appropriation of \$250,000 from the General Revenue Fund for carrying out the provisions of the Minority HIV and AIDS Task Force.

TASK FORCE ON TELEHEALTH

The bill establishes a Task Force on Telehealth. The Secretary of Health is directed to appoint the members of this task force. The representation will include persons in the

various medical and allied health professions, as well as other affected health care industries.

The task force will review and research the various health care telecommunications and electronic communications providing healthcare information. In addition, the task force will identify laws, regulations, and reimbursement practices relating to telehealth practices.

The bill directs the task force to submit a report of findings and recommendations to the Legislature and Governor by January 1, 2000.

DEPARTMENT OF ELDERLY AFFAIRS

The bill provides that area agencies on aging within the Department of Elderly Affairs are subject to ch. 119, F.S., relating to public records, and when considering any contracts requiring the expenditure of funds, are subject to ss. 286.011-286.012, F.S., relating to public meetings.

CLINICAL LABORATORY SERVICES FOR KIDNEY DIALYSIS PATIENTS

The bill requires the Agency for Health Care Administration to conduct a detailed study and analysis of clinical laboratory services for kidney dialysis patients in the Florida. The study shall include: an analysis of the past and present utilization rates of clinical laboratory services for dialysis patients; financial arrangements among kidney dialysis centers, their medical directors, and any business relationships and affiliations with clinical laboratories; any self referral to clinical laboratory services for dialysis patients in Florida; and the average annual revenue for dialysis patients for clinical laboratory services for the past ten years. The agency shall report back to the President of the Senate, Speaker of the House of Representatives, and chairs of the appropriate substantive committees of the Legislature on its findings no later than February 1, 2000.

The effective date of the bill is July 1, 1999, except as otherwise expressly provided.

HB 2231 (PCB HCS 99-08)--Health Care by Health Care Services; Peaden and Others (CS/SB 2438 by Health, Aging and Long-Term Care; Latvala and Others)

House Committee(s) of Reference: Governmental Operations

This bill addresses several health care issues. Specifically, the bill:

- Amends the "Patient Self-Referral Act of 1992" (s. 455.654, F.S., 1998

Supplement) and addresses issues raised in the court opinion, *Agency for Health Care Administration v. Wingo*, 697 So.2d 1231 (1st DCA June 1997). Specifically, the bill amends the "Patient Self-Referral Act of 1992" to:

- Add definitions for: "diagnostic imaging services," "direct supervision," "outside referral for diagnostic imaging services," "patient of a group practice," "present in the office suite," and "sole provider."
- Authorize referrals to sole providers and group practices for diagnostic imaging services, excluding radiation therapy services, under certain circumstances, effective July 1, 1999. In order to accept such referrals, the sole provider or group practice must bill both the technical and the professional fee for or on behalf of the patient, if the referring physician has no investment interest in the practice. The diagnostic imaging service referred must be a diagnostic imaging service normally provided within the scope of practice of the sole provider or group practice. Such sole providers and group practices may accept no more than 15 percent of their patients receiving diagnostic imaging services from outside referrals, excluding radiation therapy services.
- Authorize sole providers and group practices to accept outside referrals for diagnostic imaging services provided certain conditions are met relating to practice employment, equity ownership, practice management, billing, Medicaid service delivery, and annual report requirements.
- Impose penalty provisions for those sole providers and group practices that violate the percentage requirements set above, consistent with existing penalty provisions under the Patient Self-Referral Act.
- Require the submission of an annual attestation by each managing physician member of a group practice and each sole provider to AHCA confirming compliance with referral limitations.
- Requires group practices providing diagnostic imaging services to register with AHCA. Specifies registration information to be included, and that registration be completed by December 31, 1999.
- Modifies the contingent effective date enacted in 1998, for the removal of the Public Medical Assistance Trust Fund (PMATF) assessment on outpatient radiation therapy services and freestanding radiation therapy centers. If the federal Health Care Financing Administration (HCFA) notifies AHCA in writing, between April 15, 1999, and November 15, 1999, that the removal of the assessment violates federal regulations, then the removal of the assessment is repealed. The repeal will take effect upon the date that the Secretary of State

receives notification from AHCA of the federal determination.

- Requires AHCA, in conjunction with other agencies as appropriate, to conduct a detailed study and analysis of clinical laboratory services for kidney dialysis patients in Florida; certain issues are specified for study; and AHCA must report its findings to the Legislature by February 1, 2000.
- Applies certificate-of-need statutes and AHCA rules to all providers of adult inpatient diagnostic cardiac catheterization programs, including specified national professional guidelines relating to such services.
- Clarifies the law relating to the sale or lease of a public hospital to a private entity without subjecting such an entity, unless otherwise expressly stated in the lease documents, to the Public Records Law or the Public Meetings Law; and further clarifies that under such a transaction the private lessee operating under a lease may not be construed to be “acting on behalf of” the public lessor.
- Allows a person to sue for treble damages, reasonable attorney’s fees, and costs for willful disclosure of the person’s confidential medical records and information.
- Contains clarifying and remedial language, effective retroactively to October 1, 1990, pertaining to the state’s Medicaid tobacco litigation that applies to all causes of action arising after October 1, 1990, under the Medicaid third-party liability law, to exempt from the guidelines for distribution of funds remaining from a recovery or other collection of monies from a responsible liable party on behalf of Medicaid-eligible persons, after all expenses are paid to reimburse the state and the federal government the requirement that the remainder of such funds be distributed to the recipient.
- Creates the Florida Community Health Protection Act to establish community health pilot projects in certain specified low-income rural and urban communities in Pinellas, Escambia, Hillsborough, Pasco, Manatee, Palm Beach, and Broward Counties, and the City of St. Petersburg; under the act, certain duties are delegated to the Department of Health, including preparation of a report to be submitted, by January 1, 2001, to the President of the Senate, the Speaker of the House of Representatives, and the Governor presenting findings, accomplishments, and recommendations of the pilot projects. (This was the substance of CS/SB 2352.)
- Requires exclusive provider organizations (EPOs) and health maintenance organizations (HMOs) to allow direct access for their female subscribers to a contracted obstetrician/gynecologist for one annual visit and medically necessary follow-up care detected during the annual visit, but authorizing EPOs

and HMOs to require such an obstetrician/gynecologist treating a covered patient to coordinate the medical care provided through the patient's primary care physician, if applicable. (This was the substance of CS/SB 1554.)

The effective date of the bill is July 1, 1999, except that sections 10 and 11, relating to establishment of the community health pilot projects, are effective October 1, 1999, and this effective date applies to contracts issued or renewed on or after that date.

HB 2239 (PCB HCS 99-06)--Medicaid
by Health Care Services and Peaden (CS/SB 2124 by Health, Aging and Long-Term Care and Saunders; passed as sections 66-71 and 189-191 of HB 2125 by Health Care Services and Peaden & Others)

This bill includes provisions designed to:

Provide language to enable the Agency for Health Care Administration to pursue a certified match program to use local and state Healthy Start funding to draw down federal matching funds in the event that the federal government does not approve the pending Healthy Start waiver request;

Amend the section of statute relating to Medicaid third-party liability to require health insurers and health maintenance organizations to develop the capability for tape matches for purposes of Medicaid file matches, using the Medicare standard billing format, to determine if Medicaid recipients might have any applicable insurance coverage;

Create the "Medicaid Estate Recovery Act," which codifies into statute Medicaid's estate recovery process;

Amend the section of statute relating to Medicaid provider service network demonstration projects as a cost-effective means of purchasing, to delete the requirement that one of the four demonstration projects be conducted in Orange County;

Authorize the Agency for Health Care Administration to withhold payments in whole or in part based on evidence of fraud, willful misrepresentation, or criminal activities associated with the delivery of Medicaid goods or services;

Delete existing limitations that the agency may only reduce payments up to 10 percent of amounts owed, or up to \$25,000 per month when an overpayment by the agency exceeds \$75,000;

Provide for prompt payment of withheld payments to providers once withholding

disputes are settled; and

Create a new section of statute that specifically addresses Medicaid program integrity issues in the context of Medicaid physician providers.

The effective date of the bill is July 1, 1999.
